Mr. President, in light of this tragedy let us honor the thousands of men and women in the foreign service who ask little from us, but contribute a lot. And let us pray for the speedy recovery of Mark McCloy, and for the friends and families of those who, yesterday, gave their lives in service to their country.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS ACT

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 889, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 889) making emergency supplemental appropriations and rescissions to preserve and enhance the military readiness for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Bumpers amendment No. 330, to restrict the obligation or expenditure of funds on the NASA/Russian Cooperative MIR program.

Kassebaum amendment No. 331 (to committee amendment beginning on page 1, line 3), to limit funding of an executive order that would prohibit Federal contractors from hiring permanent replacements for striking workers.

AMENDMENT NO. 331

The PRESIDING OFFICER. Pending is amendment No. 331, offered by the Senator from Kansas, to committee amendment beginning on page 1, line 3.

The Senator from Kansas is recognized.

Mrs. KASSEBAUM. Mr. President, if I may speak for a few moments. I spoke last night, when I offered my amendment, about what I regarded as an exceptionally important issue. I would like to go through some of those same arguments again for those who might not have been in their offices or on the floor last night.

I offered an amendment that would prevent the President's Executive order on striker replacements from taking effect. I offered the amendment because I am deeply troubled by the precedents that will be set by this Executive order.

This is not a debate about whether there should or should not be the opportunity to replace striking workers with permanent replacement workers.

As we debate this amendment, Mr. President, we will hear a great deal on both sides about the use of permanent replacements. In my view, a ban on permanent replacements will upset the fundamental balance in management-labor relations that has existed now for 60 years. We have debated this issue for three Congresses now, and I know there are strongly held views on both sides.

That is not the only issue that is at stake here. The central issue before Members this morning is whether our national labor policy should be determined by executive fiat rather than by an act of Congress. I think this is an enormously important question, Mr. President, because it really does set a precedent that we should consider carefully.

By limiting the rights of Federal contractors to hire permanent replacements, the President has, in effect, overturned 60 years of Federal labor law with the stroke of a pen. I am not a constitutional scholar. But I do know that it is the President's role to enforce the laws, not to make them. By issuing this Executive order, the President has, in my view, overstepped his bounds.

For the first time, to my knowledge, the President has issued an Executive order that contravenes current law. The order will effectively prohibit one group, Federal contractors, from taking action that every other company is legally permitted to do under current law.

Regardless of what one thinks about the merits of the striker replacement issue, we should all be concerned about the precedent that this order will set. For example, what if a President decided to debar Federal contractors whose workers decided to go on strike?

Mr. President, the right to strike is legal, just as the right to hire permanent replacement workers for striking workers is legal. So it could eventually affect both sides of the coin if indeed we are going to start down this slippery slope.

Supporters of the President's action should think twice about the precedent this will set for future administrations that wish to alter labor law through the Federal procurement process. We will hear in the course of this debate that this Executive order is nothing new, that such orders were issued by previous administrations. The fact is that none of those Executive orders ran contrary to established labor law.

For example, President Bush issued an Executive order to enforce the Supreme Court's Beck decision. That order merely required employers to post a notice to employees informing them of the law. Its purpose was to enforce the law as set by Congress and interpreted by the courts.

No one's rights were infringed. No congressional policy was violated. No new rights were established. No existing rights were taken away. By contrast, this new Executive order overturns a legal right that has existed for 60 years and undermines the existing framework of our Federal labor law which Congress, for decades, has declined to change.

Mr. President, we all have sympathy for the situations occurring in plants today where there have been long ongoing strikes. We have sympathy for the hardships striking workers face. But I am a strong supporter of the collective bargaining process. If indeed we tie one hand behind our back, whether it is for strikers or for employers, we have harmed the collective bargaining process.

I urge my colleagues to look at the fine print of this Executive order. It sets out a new and unprecedented enforcement and regulatory scheme, all without the slightest input of Congress. The Executive order gives the Secretary of Labor the power to determine violations of the order, a power which Congress in similar circumstances has delegated to the National Labor Relations Board.

In addition, the Executive order gives the Secretary of Labor authority to write new regulations on who will be subject to the order. Not only does the Executive order circumvent Congress by making a new law, it also creates more new regulations.

According to the Washington Post today, at least part of the administration's motivation for issuing the Executive order stems from recent strikes such as Bridgestone/Firestone Co. We can all appreciate the emotions and upheavals that occur in any labor dispute. They are troubling to each and every one of us whether it occurs in our State or not. Just weeks ago the Senate overwhelmingly rejected a sense-of-the-Senate resolution urging intervention in the Bridgestone dispute.

Here again, the administration has chosen to go around Congress by this Executive order. Many on both sides feel quite strongly about the issue of striker replacements. I believe existing law provides an appropriate balance between the interests of management and labor. But we will also hear from those who oppose this amendment because they believe that using striker replacements is inherently unfair.

That issue will be debated, I am sure, at another time. We have done so in the past. Mr. President, that misses the point. Regardless of what we believe about striker replacements, it is up to Congress and not the President to set our national labor policy through legislation. We should not relinquish that authority by permitting this Executive order to stand.

Mr. CHAFEE. Mr. President, I strongly support the amendment being offered by the Labor and Human Resources Committee Chairwoman, Senator KASSEBAUM, which would prohibit funding for the implementation of the President's Executive order which was signed yesterday.

What does that Executive order do? It bars Federal contractors from hiring permanent replacement workers during an economic strike. A similar prohibition has already been included in the FEMA supplemental appropriation bill which is pending in the House.

In the event of a finding that permanent replacement workers are used in

any Federal contract exceeding $100,000, which is about 90 percent of the dollar value of all Federal contracts—in other words, this in effect covers all Federal contracts—the Executive order authorizes the Secretary of Labor to instruct affected agencies to terminate such contracts, if convenient.

While the Secretary may not compel agency compliance, he may then proceed to debar the contractor from receiving or performing any Federal contracts until the offending labor dispute is settled.

Now, Mr. President, I think it is regrettable that the President has chosen to circumvent the will of Congress on this issue. That is what is happening here. Legislation to prohibit businesses from hiring permanent replacement workers was the subject of a bipartisan filibuster in 1992 and again in 1994. This matter has come before this body twice in the last 3 years.

Senators feel very strongly that overturning this Supreme Court decision of Mackay Radio, 1938—which was some 55 years ago—either overturning that by legislation or by Executive order, many Senators believe would undermine the very foundation of modern labor relations policy. Namely, the collective bargaining process. In Mackay Radio the Supreme Court held that employers had the right to maintain business operations with the replacement workers in the event of an economic strike. That is what the Court said. Just as affected employees have the right to strike for better wages or benefits.

The change proposed would eliminate, in our judgment, any incentive for good-faith negotiation and bargaining and create an unlevel playing field to the detriment of the employers.

Now, the bottom line, Mr. President, is that the President's Executive order would force Federal contractors hit with a strike to accept union economic demands or face the prospect of a prolonged shutdown that could prove fatal to these companies. Alternatively, such businesses could elect to abandon the Federal contractual marketplace altogether.

One, that is an unlikely option for some of our large contractors; two, it is bad for our country. We do not want to eliminate prospective bidders. We want to have more bidders, and hopefully that would be achieved. That is what we seek. Certainly not possible under this legislation.

Now, Senators also feel strongly that this is a question of labor-management policy. This is not a procurement issue. The President somehow in order to achieve his goal put this in the terms of procurement issue. It is a labor-management policy, a labor-management situation.

The Congress, not the executive branch, must initiate any changes in our labor laws—that is where this matter belongs, in the Congress of the United States—and a change of the kind the President has proposed is clearly ill-advised and unwarranted. For this reason, I am certain that the President's decision to go forward with this Executive order will be challenged in the Federal courts.

H.R. 889, which is the legislation before us—not the amendment, but the basic bill we are debating today—provides urgently needed funding to the Department of Defense to shore up sagging readiness and to reimburse for services for unexpected contingencies in Haiti, in the Persian Gulf, and other hot spots of the world. It would be unfortunate, I believe, to delay this funding over the striker replacement issue, but the President's decision has left the Senate no alternative but to rehash this issue again and to prohibit its implementation, if possible.

The President's Executive order, in our judgment, for those of us who oppose the ban on striker replacements, is a job-killing one which, if left to stand, would harm our economy, would increase labor strife, would reduce productivity, and weaken the competitiveness of U.S. industry. Thus, I will vote for the Kassebaum amendment to prohibit its implementation, and I urge my colleagues to support the Senator from Kansas likewise. I thank the Chair.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I rise in opposition to the amendment of the Senator from Kansas. We will have an opportunity to debate the amendment, but I was interested in listening to the Senator from Kansas talk about the procedure which is being followed by the President and how this was, in effect, overriding existing law. I think that the examples that were touched on briefly, last night regarding the issuance of Executive orders or other examples that have been mentioned that were utilized by President Bush, for example, were of a different nature.

I take issue because prehiring agreements are basically legal and the Executive order by President Bush effectively excluded prehiring agreements, any prehiring agreement under Federal contract. It was thus in complete conflict with the existing law. We know that, because the definitive case at issue involving a prehiring agreement involved all of the work being done on Boston Harbor. That agreement was entered into and was subsequently upheld by the Supreme Court. It is, at the present time, working, and working extremely effectively, I might add. I will not take the time of the Senate right now to go into how effective that particular agreement has been in terms of the saving of resources and taxpayers' funds. But an effort to prevent prehire agreements certainly was an action that was taken by the previous administration, and I did not hear the chorus rise up at the time and talk about exceeding the authority and responsibility of the executive branch in moving ahead to address that issue. To the contrary, there was broad support for the President's action in that area.

But I would like to just take a few moments to put this amendment in some perspective. I think all of us understand the urgency and the importance of the underlying legislation and the importance of having it concluded at an early time. This legislation is important to our national security and national defense, a matter which has been raised by the Senator from Kansas. The Senator raises an important public policy matter with her amendment. I would have thought we would have addressed it in some other forum, although we will certainly welcome the opportunity to debate this because it is an extremely important issue affecting workers' rights. It is more of an effort, I feel—I do not want to draw conclusions in terms of the motivations of it—a real attempt to embarrass the President of the United States who has issued this proclamation on behalf of working families.

I think if we look over the period of just recent times, both on the floor of the U.S. Senate and also in our committee systems and also actions in the House, we find out, if we have a chance to go into it, that this is just one more step that is being taken by the majority in the House and Senate to undermine the very legitimate interests and rights of working families in this country. But I will have a chance to address that issue in just a few moments.

But let me bring focus to the particular matter which is before us in the form of the Senator's amendment. Our Republican colleagues have asserted that we need to act because the President has exceeded his authority by acting on a labor relations issue without specific congressional authority and that Congress has already rejected the President's action through last year's vote on S. 55, the Workplace Fairness Act.

In fact, a majority, Mr. President, in both Houses of Congress, supported making it unlawful for any employer to use permanent replacements. The ban was not enacted because a minority of the Senate was able to prevent the consideration of S. 55, but Congress never rejected the lesser step of prohibiting the use of permanent replacements by Federal contractors. We never addressed that issue. There was majority support to address this issue in the House of Representatives. It was bipartisan. There was majority support to readdress the whole striker replacement issue in the Senate, but a small minority was able to defeat that action and defeat that policy question. No action was taken on the particular authority of the President to take the action which he did yesterday.

President Clinton's action, in issuing this order, is simply an exercise of his well-recognized authority over procurement and contracting by the executive branch authorities, an authority that was exercised both by President

Reagan and President Bush, with no objections from those who are now expressing such dismay.

In 1992, President Bush issued two Executive orders dealing with Federal contractor labor relations which are clear precedents for President Clinton's action, which many of my colleagues on the other side of the aisle applauded rather than condemned.

The first of those two Executive orders required all unionized Federal contractors to post a notice in their workplace informing all employees that they could not be required to join a union and that they had a right to refuse to pay dues for any purpose unrelated to collective bargaining.

Those requirements are not requirements of the National Labor Relations Act, and not only were they never enacted by Congress, but proposed legislation to establish such rules had so little support that it was never even reported from the committee. Indeed, when President Bush issued that Executive order, his press secretary pointed to Congress' failure to act on the legislation as the President's reason for acting.

That is in dramatic contrast to the current situation on the whole question of permanent replacement where a majority of the Members of the House and even a majority of the Members of the Senate were prepared to act, wanted to act, and that action was foreclosed by a small group of Members in the Senate. In contrast to this situation, they could not even get the support for that particular proposal to get the measure out of committee.

So was there objection at that time either from the Senator from Kansas or others? Were there any protests from my Republican colleagues? There were not. It is clear that the objections that are now being raised to President Clinton's action are not based on principle or a consistent view of the President's authority with respect to labor relations in Federal procurement.

The second of the two Bush Executive orders on Federal contractor labor relations issued in October 1992 dealt with prehiring agreements, collective bargaining agreements that establish labor standards for construction work prior to the hiring of workers.

Prehire agreements are common in the construction industry and lawful under the National Labor Relations Act, yet President Bush, without any specific authorization by Congress, prohibited Federal contractors from entering into such agreements for work on Federal projects.

Did my Republican colleague object to the fact that President Bush was prohibiting a labor relations practice that Congress had chosen to permit? She did not, and neither did any of the other Republican Senators.

What is this really all about? The truth is that this debate is a continuation of our debates in the past two Congresses on the Workplace Fairness Act. Only now the shoe is on the other foot and it is clearly pinching our Republican friends. They forced us to get 60 votes to pass the act, which we were unable to do.

The basic principle behind the President's action has strong public support. In the latest poll from Fingerhut Associates, 64 percent of respondents said that once a majority of workers have voted to strike, companies should not be allowed to hire permanent replacements to take their jobs. The American people understand that this is a question of simple justice for workers.

That is what the issue is about, simple justice for workers.

It is unlawful for any employer to fire a worker for exercising the right to strike, and it should be equally unlawful for an employer to be able to deprive a striking worker of his job by permanently replacing that worker. It is as simple as that.

Repeatedly, when we are debating economic legislation and U.S. competitiveness in the world economy, Senators from both sides of the aisle praise the high productivity of American workers, their excellent skills, and their pride in their work. Yet much of the legislation we pass ignores the importance of treating American workers fairly. The Executive order is for the American worker. It will restore the balance of power intended between management and labor under the National Labor Relations Act.

Basically, the striker replacement legislation was to restore the balance which had existed for years and contributed so mightily in terms of our whole economic progress and our industrial strength. That balance has been shifted and changed in recent times with the strike replacement activities of a number of employers, and that has diminished the economic standing of American workers who continue to be the backbone of the American economy.

That farsighted act, the National Labor Relations Act, signed into law by President Roosevelt in 1935 as the cornerstone of the New Deal, recognized the inherent inequality between the ineffective bargaining power of a lone worker seeking to improve wages and working conditions and the overwhelming bargaining power of the employer.

As part of comprehensive legislation enacting the fundamental goals of national labor policy, the 1935 act guaranteed the rights of workers to form and join labor organizations and engage in collective bargaining with their employers. The act gave workers strength in numbers. It gave them countervailing power, capable of matching the power of the employers.

As the Supreme Court said in 1935 in a landmark decision upholding the constitutionality of the National Labor Relations Act, long ago we stated the reason for labor organizations. We said they were organized out of the necessities of the situation, that a single employee was helpless in dealing with an employer, and that he was dependent ordinarily on his daily wage for the maintenance of himself and his family; that if the employer refused to pay him the wages that he thought fair, he was nevertheless unable to leave the employer's employ and resist arbitrary and unfair treatment; that the union was essential to give laborers an opportunity to deal on an equal basis with the employer.

Today, as much as ever, the employees need the right to organize to improve their wages, working conditions, and enter into a dialog with their employers about how work should be arranged so that the firm can achieve its productivity, its profitability goals, while at the same time ensuring fair treatment for workers. But the right to organize and bargain collectively is only a hollow promise if management is allowed to use the tactic of permanently replacing the workers that go on strike.

No one likes strikes, least of all the strikers who lose their wages during any strike and risk the loss of health coverage and other benefits. Because both workers and employers have a mutual interest in avoiding economic losses, the overwhelming majority of collective bargaining disputes are settled without a strike, but the right to strike helps to ensure that a fair economic bargain is reached between employers and workers.

The labor laws give workers the right to join together to combine their strength, and the union movement has been responsible for many of the gains that workers have achieved in the past half century. The process of collective bargaining works. It prevents workers from being exploited and has created a productive balance of power between management and labor. And the cornerstone of collective bargaining is the right to strike. That right is nullified by the practice of permanently replacing workers who go on strike. The entire process of collective bargaining is undermined.

That is basically what is at issue here, as I described. That is the basic and fundamental matter of principle that is before the Senate today. It is as old as the debate in terms of our whole industrial development and strength as a country, and it is basic and fundamental to the issues of economic justice and social progress in our country. That is why it is such a principal issue that has to be addressed today and why it will need discussion and debate.

Both the National Labor Relations Act and the Railway Labor Act explicitly prohibited employers from firing employees who exercised their right to strike. As a result of a loophole created by the Supreme Court half a century ago but seldom used until recent years, the practice of permanently replacing striker workers allows employers to achieve the same result. The ability to hire permanent replacements tilts the balance unfairly in favor of business in labor/management relations, and it is

no surprise that business is lobbying hard to block this Executive order.

Hiring permanent replacements encourages intransigence by management in negotiating with labor. It encourages employers to replace current workers with new workers willing to settle for less and to accept smaller pay checks and other benefits. The Executive order will help restore the balance that has been distorted in recent years. It will reaffirm the original promise of the statutes and give workers the right to bargain collectively and participate in peaceful activity in furtherance of their goals without fear of being fired.

The Supreme Court's decision in the Mackay Radio case in 1938 is a source of the current problem, even though the issue is not squarely raised in the case itself. In Mackay, the Court ruled it was unlawful for an employer to refuse to reinstate striking union leaders when the employer had reinstated other striking union members. The Court refused to allow the employer to discriminate between strike leaders and other strikers. It ordered the employer to put the permanently replaced striking union leaders back to work. In fact, the Supreme Court did not even have before it the issue of the legality of permanently replacing striking workers, but language in the decision condoning the employer's hiring of permanent replacements has been interpreted as permitting the practice as long as the employer does not use it in a discriminatory way.

This aspect of the Mackay decision had no significant impact on labor relations for nearly half a century. Few employers resorted to permanent replacements or even threatened to use that tactic. Employers and workers had a mutual understanding that strikes are only temporary disruptions in an ongoing satisfactory relationship. Businesses responded to strikes in various ways, by having supervisors perform the work, by hiring temporary replacements, and by shutting down operations. Employers acted on the belief that their work force was valuable and not easily replaced and that once the temporary labor dispute was over, the two sides would resume the collective bargaining relationship that brought the benefits and stability to each.

In fact, a survey by the Wharton Business School in 1982 revealed that most employers found no need to hire any replacements during a strike. Many believed that hiring even temporary replacements was undesirable because it would make the settlement of the strike and resumption of stable labor relations more difficult after the dispute, and under those circumstances there was no need to seek a change in the law.

But in the 1970's and 1980's, this de facto pattern began to change, and most observers feel that the strongest signal for change came in 1981 when President Reagan summarily dismissed the PATCO, air traffic controllers who went on strike and permanent replacements were hired by the FAA.

The increased use of permanent replacements in recent years has been confirmed by a survey of the NLRB decisions and other reported cases. During the four decades from 1935 to 1973, the survey found an average of 6 strikes a year in which permanent replacements were used, but the number quadrupled to an average of 23 strikes per year for the period 1974 through 1991.

Mr. President, I have other remarks but I see my friend from Illinois and also Wisconsin on the floor. I know other colleagues are here, so I will yield in just a few moments and then come back and continue my discussion of this issue.

Mr. President, I am somewhat troubled by the whole pattern that has been developed in the period of these last several weeks and what it means for working families in this country. I cannot help but conclude that the actions that we have before us in the proposal of my good friend, the Senator from Kansas, is not unrelated to a whole stream of activities and statements and comments that have been made about the condition of working families in this Nation that are really the backbone of our country.

I can think of the recent discussion and debate that we had on an issue which is as basic and fundamental as the increase in the minimum wage. The origins of this minimum wage go back in time to a similar period that we had discussed, with the development of the National Labor Relations Act, where it was generally understood in the United States of America that if an individual member of the family was prepared to work 40 hours a week, 52 weeks of the year, that member was going to have a sufficient income so they would not be in poverty, so their children would not be in poverty, so that their wife would not be in poverty or their husband would not be in poverty—that they would not be in poverty. They would effectively be able to own their own home—hopefully be able to pay a mortgage—provide for their children, live with some sense of dignity and some sense of a future.

That was a part of the whole social compact that was basically supported by Republicans and Democrats alike for a considerable period of time. It really lost its thrust in the period of the 1980's, when an increase in the minimum wage was vetoed. Eventually a compromise was reached. We had an incremental addition of a 45-cent and a 45-cent increase in the minimum wage, and we saw that increase go into effect. And all of the various suggestions and recommendations that had been made about the loss of jobs failed to develop. What happened was that hard-working Americans—overwhelmingly women in our society; close to 75 percent of the people who earn the minimum wage are women in our society—they were able, not really to make it but to at least continue to work and to try to provide for their children. Make no mistake, the issue of minimum wage is an issue for children in our society as well as for those individuals who are working to make the minimum wage.

So a number of us introduced legislation to just raise the minimum wage—we thought 50 cents, 50 cents, 50 cents—over the period of the next 3 years to try to regain the concept that for a working family, work was going to pay, and that people who were prepared to work would be able to make sufficient income to provide for their families. Then we cut that back to 45 cents and 45 cents. These are effectively the same amounts that were accepted previously and supported by a President and supported in this body overwhelmingly, by Republicans and Democrats, and signed into law by a Republican President. We thought if we had that ability with a Republican President and a Democratic House and a Democratic Senate, that at least we would be able to do the same with a Republican House, a Republican Senate, and a Democratic President. We thought with a signing into law of 45 cents and 45 cents we would get back effectively to where we were in terms of purchasing power, to the purchasing power that would be available to families that had received the minimum wage a number of years ago, in the late 1980's—1989, 1990—under a law signed by President Bush.

We had the Republican leadership condemn this measure, saying they were unalterably opposed to the increase. Some even expressed opposition to any minimum wage. And we have been trying to see how we might be able to make that a part of the real Contract With America—the real Contract With America: Rewarding work. Rewarding work.

We do not need a great deal of hearings on that measure. I know I attended one, of the Joint Economic Committee, between the House and Senate. It was very interesting. The overwhelming number of independent studies, of 11 independent studies that reviewed the history of the minimum wage increase, showed no effective loss of jobs. All we have to do is look historically at the seven increases in the minimum wage since the time it had been actually implemented, and we find the same result. Nonetheless we have the harshness and the criticism of any increase, in terms of the minimum wage. So we have that out there on the deck for the working families.

If you had a little scorecard you could say, all right, now let us also try and repeal what the President did for working families on this Executive order: Opposition to that. You could write underneath it: Opposition to the increase in the minimum wage.

Then we come back to hearings in our Labor and Human Resources Committee about the repeal of the Davis-Bacon Program. All the Davis-Bacon Program says is we are going to have a

prevailing wage in various Federal contracting so the Government will have a neutral role, in terms of wages, in terms of performance of various work.

We have the assault on the Davis-Bacon Program. Who is affected by the Davis-Bacon Program? The worker's average income is $26,000 a year. What have we done to workers that are making $26,000 a year, in some of the most dangerous work in America? Outside of mining, construction is one of the two or three most dangerous employments in our country. Mr. President, $26,000 a year, and we are declaring war on those families.

No, we are not going to give working families a minimum wage increase. No, we are not even going to give the protections for a family earning $26,000 a year that wants to work in construction and build America—no, that is too much for those individuals.

So we say OK, we are not going to permit the President to protect workers on Federal contracts that are being threatened with permanent strike replacements, which have been part of our industrial tradition. We are against the minimum wage. Now we are against those workers.

Not only are we against those workers but we have a new gimmick. We are having what we call 8(a)(2) of the National Labor Relations Act, to try to promote company unions. We are not satisfied that the working relationship between employers and employees is a balance. We want something different. Sure, we had that matter discussed by distinguished and thoughtful men and women on the Dunlop Commission, but they did not recommend a unilateral action in terms of section 8(a)(2). They did not recommend that particular measure. They understood what was at risk on this measure. We have those who are trying to undermine even the heart and the soul of the concept of workers being able to come together to at least exercise their rights for economic gain. That is out there. So we have that on the table as well.

Mr. President, all we have to do is look at what has happened to workers' interests over the period of the last 12 or the last 15 years. On the one hand you see the extraordinary rise in profits—and we are all thankful that we have American companies and corporations that are being successful and being able to compete internationally and are experiencing some of the greatest profits in the history of this country. But it is virtually flat in terms of real wages and take-home pay for working families. It is virtually flat, if not diminished, in terms of the entry-level jobs and jobs at the bottom, effectively, 65 or 70 percent of workers who are out there. It is effectively flat or being reduced.

Every day their financial interests are being assaulted out there. Instead of being out here on the floor of the U.S. Senate saying: Look, they are the men and women who are the backbone of this country, what can we do to try to make sure that they are going to be able to live in some peace and dignity and respect? We cannot even wait a few hours in order to tag an amendment on something which is vital to our national security and begin the debate to diminish them. That is what this debate is all about: Do not let them get ahead a little bit, in spite of the fact that under the previous administration, under the Bush administration, they issued Executive orders and those that are supporting this particular proposal were then silent—for example with regard to the prehearing agreement.

The prehiring agreement was legal. He made it illegal. I do not want to hear talk about going beyond or exceeding the authority of the power of the President. I mean, give us a break, Mr. President, in terms of this measure. We know what it is about. I think the American people ought to understand it.

What is it about working families? Not only their interest, but what is it about their children? They are trying to raise the cost of their children going to college, raise the cost of the interest on those loans while those kids are going on to the universities and colleges across this country, raise that $20 billion over a period of 10 years, raise that $20 billion so that every son and daughter of that working family that is hardly able to put it together is going to pay even more. No; do not try to find ways to try to make it easier for the sons and daughters to continue on and get a higher education understanding that what you learn is related to what you earn. Make it more difficult.

This has been established as a matter of discussion and debate at the various Budget Committees and in the House Appropriations Committee. Make it more difficult. That is not bad enough. For their younger brothers and sisters who are going to school, they take their school lunch away from them. What is it about, Mr. President? What is it about this whole concept, whether it is the Contract With America or whatever it is, that is declaring war on working families? War on the children in terms of the kids and whether they are getting fed, or whether that kid may need a summer job. Eliminate all the summer jobs.

They eliminated 13,000 summer jobs in my State of Massachusetts. Those summer jobs came in the wake of the Los Angeles riots. I think we should learn a lesson. We wanted to try to get young people at the time when they are not involved in school to try to get them starting to do something gainful such as employment. They eliminate those summer jobs.

So they take away something that those younger brothers and sisters can eat and take away the employment in time of summer. Take that away. Cut back on the education programs. Say to the mayors of the various cities that are trying to do something in various areas of working families with their community development block grant programs, we are going to cut that as well. We are going to make it more difficult for you to try to make life somewhat better in terms of the inner cities.

Sure, Mr. President, we have to get our handle on the costs of escalating Government expenditures. But my good friend from Nevada, Senator REID, said it more wisely than I have heard here on the floor of U.S. Senate for some period of time. That is, you are never going to do it until you reform the health care system. You are never going to do it until you reform the health care system. Health care costs are going up at 10 or 11 percent, double the rate of inflation. It does not make sense just to put a cap on those Medicare and Medicaid costs because all you will do is transfer it to the private sector with all its inefficiency and back to those communities in all those cities that have those emergency rooms in inner cities. It is going to cause even more distress and poor outcomes in terms of health results as well as the cost of it. This is the serious matter of trying to do it.

So, Mr. President, I see my colleagues here on the floor. I hope that we will have a chance to focus on precisely this amendment. I think it underlines some basic kinds of protections which are not going to solve all of the problems that we are facing in terms of working families. But it seems to me at some time we just have to say we have had enough. We have had enough in terms of the continued assault on working families in this country. It is only the beginning of March.

We have only just touched very briefly on some of the measures that are going to affect the children. Cut back on the day care programs; day care programs for working families. Only about 5 or 6 percent of the needs are being met today, and we get a recommendation to cut back on those programs as well. So you are a mother. You want to go out and work. You are not going to be able to get any day care for your kids, as inadequate as it is today.

What is this common sense? What is it about the families that have children in our society that are the subject and the target of this kind of an attitude? It makes no sense.

This measure that we have now before us is related to that whole concept. It is unwise in terms of policy. It is unwise in terms of the interests of the workers that it is going to protect.

I will have more to say about it later in the debate.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mrs. KASSEBAUM). The Senator from Illinois.

Mr. SIMON. Madam President, I rise in opposition to this amendment. I think it is not in the national interest.

I simply remind my colleague from Kansas, who is the chief sponsor of the amendment, and all of my colleagues that consistency is not necessarily the virtue of any of us in this body. But I remind my colleague from Kansas, who is now the Presiding Officer, that on January 6 of this year, 2 months and 3 days ago I introduced a resolution, a sense of the Senate—nothing nearly as sweeping as the Kassebaum amendment—which simply said to the Bridgestone/Firestone Co., a wholly owned Japanese subsidiary with 4,200 workers, they ought to get together and have talks and not have the permanent replacement.

At that point, the distinguished Senator from Kansas, who is my friend, with whom I enjoy working on African issues and many other things, said:

> I know the Senator from Illinois is well-intentioned. But this is neither the time nor the place for Congress to be considering anything other than this very important bill which is before us. The amendment offered by the Senator from Illinois is completely extraneous from the matter at hand, and for that reason alone I believe the Senate should table his amendment.

If I may use the words of the Senator from Kansas, and just modify them slightly, I would say the amendment offered by the Senator from Kansas ''is completely extraneous from the matter at hand, and for that reason alone I believe the Senate should table her amendment.''

Her words were heeded by this body, and by a narrow margin that amendment was defeated. I hope this amendment will be defeated. It is part of what Senator KENNEDY was just talking about.

We have a very fundamental philosophical decision to make in Government—whether Government is going to help the wealthy and powerful, or whether it is going to help those who really struggle. My strong belief is the wealthy and powerful do a pretty good job of taking care of themselves, particularly with the system of campaign financing that we have in this country. And what we ought to be doing is trying to help people who struggle. This amendment goes in the opposite direction.

I point out that in the United States today only 16 percent of our work force is organized by labor unions. No other Western industrialized democracy has anywhere near that low a figure. If you exclude the governmental unions, that number drops down to 11.8 percent.

Not too long ago, George Shultz, the distinguished former Secretary of State and Secretary of Labor, made a speech that was quoted in the New York Times in which he said things are out of balance in our country, that the fact that labor union membership is so low, so small in our country, is not a healthy thing for the United States of America.

I agree with him completely. I think we need greater balance. That is the word that ought to be part of our dialog here.

The reality is that we had pretty good balance in labor-management relations over the years, since the early 1930's. When a Democrat came in, the National Labor Relations Board shifted a little bit on the side of labor, and when the Republicans came in, it would shift a little more on the side of management; but it was a pretty good balance. Then Ronald Reagan became President, and all of a sudden it got way out of balance. That has done real harm to labor-management relations in our country.

The minimum wage that Senator KENNEDY talked about is one part of providing a little balance. Real candidly, I think the minimum wage would do more in terms of welfare reform than any of the bills that I see before us that are labeled ''welfare reform'' right now.

But in terms of permanent striker replacement, I mentioned Bridgestone/Firestone, a Japanese-owned corporation. Permanent striker replacement is illegal in Japan; it is illegal in Italy, it is illegal in Germany; it is illegal in France; it is illegal in Denmark; it is illegal in Norway; it is illegal in Sweden. I do not know what countries I have skipped now, but the only countries outside of the United States of America where it is legal—the only democracies where it is legal to fire permanent strikers are Great Britain, Hong Kong, and Singapore. In every other Western industrialized democracy, that kind of action is illegal. Traditionally, we just have not done that in our country. I do not think we ought to be moving down that line. I think the President's action provides a little balance that is needed.

Let me add, Madam President, if this amendment is adopted, I am going to have a series of amendments on labor law reform. For example, if you have a pattern and practice of violating the civil rights laws of this country, you cannot get a Federal contract. I think it ought to be the law in this country that if you had a pattern and practice of violating labor laws, you should not be able to get a Federal contract. I think if you have a pattern and practice of violating worker safety laws, you should not be able to get a Federal contract.

When you organize—in Canada, for example, if you want to organize a plant or site, you have 30 days in which a majority of people can—the 30 days comes after you get the majority of people. You get a majority of people to sign cards and pay $1, and 30 days after that, that plant or site is organized. In the United States, it can draw out for 7 years before a plant is organized, and in the meantime, an employer, for all practical purposes, has the legal right to fire people for their union activity.

There are a whole series of things that can be done. If this amendment is adopted, we are going to have other amendments in this area. But I would get back to the fundamental point that my colleague from Kansas made to me when I proposed an amendment, which was just a sense of the Senate and had no permanent implication, as this one does, when she says, ''The amendment offered by the Senator from Illinois is completely extraneous from the matter at hand, and for that reason alone, I believe the Senate should table his amendment.''

The Senate listened to her then. I hope they will listen to her words now and table the amendment of the Senator from Kansas.

Madam President, I yield the floor.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Madam President, I did not expect to spend much time on the floor today discussing the subject of permanent striker replacement. As we have seen, we have had eloquent speeches by Members of the minority who have set forth an issue for us which was led to by action of the President just recently and the amendment by the Senator from Kansas.

I rise in favor of that amendment. Like many of my colleagues, I thought we had put this issue to bed last year when both the House and Senate considered S. 55 and it was rejected, or never even left the desk in the Senate.

President Clinton made his support of this type of legislation clear during the 1992 election campaign, and he and Secretary of Labor Reich have reaffirmed their commitment to a striker replacement bill on numerous occasions since. Clearly, the President would have signed a congressional bill if it had been laid on his desk. However, as we know, S. 55 never left the Senate desk.

The President certainly is free to attempt another legislative push for a bill like S. 55. I would not welcome the attempt, but it would be well within the normal flow of our governmental process for him to do so.

However, it is abnormal, unusual, and unprecedented for President Clinton to address this issue through the Executive order he issued yesterday.

The legal arguments against the President's action are many and compelling. Congress has spoken consistently on this subject in the context of the National Labor Relations Act for over half a century.

In 1938, the Supreme Court handed down the Mackay Radio decision authorizing permanent replacement of economic strikers. Since then Congress has considered amendments to the act several times, but it has never approved overturning Mackay.

So it is important to remember this, because as we go forward and talk about Executive orders and the power of Executive orders, it must be remembered that this present law is consistent with a U.S. Supreme Court decision.

An Executive order that directly contravenes the express will of Congress

calls into question significant separation of powers issues under the Constitution. For the past several weeks, we have heard very powerful arguments on the importance of this separation of powers in the context of the balanced budget amendment, and I expect we will hear more when we soon turn to consideration of the line-item veto.

These arguments, while perhaps valid, are speculative. In the case of the Executive order in question, the challenge is clear and present. An Executive, frustrated by legislative inaction, is seeking to accomplish by Executive order what has been explicitly denied him by the legislatures and which is inconsistent with the U.S. Supreme Court decision. I hope those of my colleagues who have been concerned about the issue of the separation of powers will see fit to support the Kassebaum amendment, regardless of their views on the merits of the legislation banning permanent replacements.

This is not to say that the President cannot use Executive authority to attach conditions to parties entering into contracts with the Federal Government. But that power has generally been used to force or encourage contractors to do something that is consistent with existing law or policy.

By contrast, the present order would deny contractors the right to take action which is authorized under the National Labor Relations Act, which has been upheld by the National Labor Relations Board and the Supreme Court, and which Congress has repeatedly refused to outlaw. Thus, the President's order swims upstream against the current of existing law and policy. In doing so, it is unprecedented and unsupportable.

Legal arguments aside, perhaps the most compelling evidence on the weakness of this policy comes from the administration itself. We witnessed, or more accurately did not witness, a stealth signing ceremony, where partisans were invited but the press was excluded.

In fact, the defense of the policy from the White House gives ''weak'' a bad name. Ostensibly, the policy is designed to ensure the quality of products the Government procures. This is an extraordinary position for at least two reasons.

First, it exhibits a total lack of faith in the Government procurement process. Apparently, all the administration's efforts to retool the procurement process have produced and Edsel, as it apparently will be unable to distinguish and reject faulty products in the absence of this Executive order. This is a very sad commentary on GSA, the Department of Defense, and every contracting agency.

But even if we could believe this sad state of affairs, it belies a fundamental misunderstanding of the dynamics of a strike. The alternative to permanent replacement workers is not a happy stable of industrious elves, but shutdowns, shorthanded shifts staffed by managers and supervisory staff, of temporary replacements. It is hard to see how these alternatives will result in the production of appreciably higher quality goods or services.

Back in the real world, the failure to meet standards would free the Government to contract with other providers. Future Federal contracts might be jeopardized as a result of failure to live up to contract terms. Thus, it would be a self-defeating act of the highest order for a contractor to put itself in this position.

If the administration were really worried about the impact of strikes and permanent replacement workers on the procurement process, then it would condition the receipt of Federal contracts on the assurance that performance of the contract would not be interrupted by a strike. That step, and that step alone, would ensure that a trained and stable work force would do the work throughout the contract.

Doing so, of course, would be a bad idea, because it would diminish the rights of one party to a collective bargaining agreement, it would reduce the pool of potential bidders and would likely increase costs to the Federal Government. But this description applies equally well to the administration's policy.

Madam President, I think it is clear that the President's purpose is not to aid the cause of public procurement, but that of partisan politics. It is a bad idea whose time will never come.

His action is a clear affront to the separation of powers, is of questionable legality, and will ill serve labor management relations and the taxpayers. Given all these considerations, I strongly support the amendment offered by the chairman of the Labor and Human Resources Committee, the Senator from Kansas, Senator KASSEBAUM, and hope that the vast majority of my colleagues on both sides of the aisle will agree that this step, putting aside all of the partisan politics, is just ill-advised from the perception of the separation of powers and for good policy.

It seems that no traditional labor law issue so galvanizes the actions of the interested parties as does the legislative debate on striker replacements. While all can agree that this issue cuts to the very heart of the collective bargaining relationship, there is wide disagreement on whether a ban of replacements would help or hurt the institution of collective bargaining.

At the outset, Madam President, we need to agree on whether there is a problem requiring a solution before passing that solution into law or mandating it by Executive order. My difficulty with the President's order is that I am not convinced there is a problem with the hiring of permanent striker replacements that requires any solution, much less the absolute ban advocated by this Executive order. Moreover, even the data produced in support of similar legislation over the past several years are at best inconclusive on whether use of permanent replacements is a growing trend in the business community or that it is any more prevalent now than it was in the past.

Madam President, the impetus for this Executive order is, to a large extent, driven by the celebrated cases where permanent replacements were used. Thus we have heard over the years about Eastern Airlines, Greyhound, the New York Daily News, and now Bridgestone-Firestone to name just a few. However, these and other examples of the use of permanent replacements do not suggest models of successful corporate strategies. To the contrary, many of these companies have suffered grinding reversals of their business fortunes, up to and including total business collapse, following the use of replacements. I do not believe that many companies will want to adopt a pattern of behavior which leads to such results. And again, of course, the statistics do not show that many have chosen to do so.

The Clinton administration has set in motion the process of taking a hard look at our system of labor laws. Toward that end, a blue ribbon Dunlop Commission was established with the mission of studying workplace cooperation and recommending ways of reforming worker-management relations to ''create an environment within which American business can prosper.'' That Commission has now issued its report and recommendations. It is significant to note that the Commission did not recommend the radical change in the law on replacements that the President's Executive order mandates.

From the beginning of the debate on this issue, I have suggested that we need to open up a broad-based discussion on the way in which labor relations disputes are resolved. I am a supporter of the American system of collective bargaining and I believe, for the most part, that it does a good job. However, the simple truth is that system works better for everyone in times of economic expansion than it does in connection with the setbacks and retrenchment found during a recession. This elementary fact probably has as more to do with any increase that may have occurred in replacement situations than does some fanciful conclusion about changes in employer attitudes brought on by President Reagan's handling of the air traffic controllers strike.

I for one would be willing to explore the options which exist in the area of alternative dispute resolution. We do have some history on this issue. There are segments of the American work force where the right to bargain collectively does not include the right to strike. The majority of these are within the public sector. In those instances, various systems have been devised for resolving disputes on which the parties themselves cannot agree. Perhaps it is time to begin moving away from the

ultimate labor warfare of strikes, lockouts, and replacement workers and toward some alternative system of dispute resolution for more of the private sector.

Madam President, this is not a new exercise that we engage in today. Elements found in the bill have been seen in legislative offerings at least as far back as the last big labor law reform effort in the 1970's. Further, significant legislative battles have been waged on the issue in each of the past two Congresses. The fact that there has been no evolution toward consensus in the terms of this debate is a sad testament to our collective failure to address this issue realistically.

Given the long history of the underlying issues, and the work of the Dunlop Commission, there are many aspects of collective bargaining that we might productively reexamine. For example, it troubles me that unfair labor practice strikers must wait so long for a resolution of their charges. Further, it might be profitable to examine stronger sanctions against those who engage in unfair labor practices. And as one who supported labor law reform in the late 1970's, I am certainly open to suggestions on ways to streamline the process of deciding whether or not a group of workers wishes to organize.

With specific regard to permanent replacement of economic strikers, for the past few years I have stated that we should look at the special circumstances presented in concessionary bargaining situations and first contract negotiations. As I stated on the floor of the Senate during the 1992 debate, the situation presented by an employer's demand for contract give backs or concessionary bargaining demands may well be one in which the use of permanent replacements is not justified. Adoption of a restriction on this practice would address most, if not all of the instances of abuse presented to Congress as demonstrating the need for legislation on this issue.

Similarly, in first contract negotiations, where there is no established bargaining relationship, I believe a third party intermediary could serve a useful role. Neither the Senate nor the House Labor Committees have examined these ideas in their handling of this issue. Rather, the limited amendments which the Democratic majority permitted to be offered in the House were persistently rejected, while in the Senate S. 55 remained almost defiantly unchanged even in the face of fatal opposition. In the current Congress, this issue is very low on the priority list for the committees of jurisdiction.

Perhaps the biggest revolution since the Mackay decision in 1938 has been the shrinking of our world. We were an insular power, one of many, and we emerged from World War II as the greatest economic power on the planet. This was not surprising given that our country was spared from damage during the war. Nor is it surprising that our preeminence has eroded in the decades that followed the war as other countries have rebuilt and retooled.

In 1938, we could afford to consider labor-management relations in isolation. In 1994, we no longer have that luxury.

Enforcement of the present Executive order will change the face of labor relations in this country. Clearly that is the intent, but is it in the best interest of the country? That is the question. I have yet to hear sufficiently compelling answers to prompt me to vote for legislation doing what the order attempts to do. The fact that the President has opted to proceed by Executive order does not change my mind or prompt my support.

Accordingly, while I remain open to the possibility of passing meaningful and wise legislation in this area, this Executive order is not such legislation. Thus, I will vote to stop its implementation and enforcement.

Madam President, I yield the floor.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

(Mr. JEFFORDS assumed the Chair.)

Mr. FEINGOLD. I thank the Chair.

Mr. President, I rise to oppose the amendment offered by the Senator from Kansas that would prohibit the U.S. Labor Department from expending funds to enforce the President's recent Executive order barring Federal contracts with contractors that use permanent replacements.

Mr. President, I am very pleased to follow the Senator from Illinois and the Senator from Massachusetts, who were extremely eloquent in pointing out how terribly unfair this practice of the use of permanent replacements really is.

The President has issued the Executive order, in my view, simply to restore a measure of equality to Federal labor law by guaranteeing the workers the right to strike without the fear of being permanently replaced. In this case, it relates particularly to those whose wages are being paid with Federal resources, being paid by Federal taxpayers' dollars.

I do not think Federal resources should be used to put people out of work. These are people who are exercising their rights under the Federal labor law.

Unfortunately, the measure of the Senator from Kansas would block the President's ability to protect these workers and companies that are Federal contractors.

Mr. President, this would be the second time in less than a year that the supporters of striker replacements have used what I consider to be subterfuge to undermine striking workers. In the 103d Congress, the opposition used parliamentary tools to prevent a vote on S. 5.

The Senator who is occupying the chair right now spoke a few moments ago and said he thought we had put this permanent replacement issue to bed. Well, in my view, we have not done that. We have not even given it a nap. We did not give it a chance. In fact, the American people, although some people did not like the outcome, elected a President in 1992—he did get a majority of the electoral votes—who was openly and clearly committed to passing and signing a ban on the use of permanent replacement workers.

So, no, this issue has not been put to bed. This issue has not been given a fair vote on the floor of the Senate and this issue has not gone away, regardless of the hopes of the folks who did prevail on November 8.

I believe that this particular amendment does a great disservice to the working men and women of America. In my State of Wisconsin, the abusive use of permanent replacement workers by a few—not most, but by a few—employers during labor disputes has a pretty long history. And it is an issue that I have been pretty deeply concerned about for many years. In fact, when I was serving in the Wisconsin State senate, I was the author of the Wisconsin striker replacement bill and had the opportunity to testify before a committee of the other body here when I was still serving in the State Senate, asking that there be a Federal law banning the use of permanent replacement workers.

But the issue has not even come close to resolution. These folks, trying to exercise their right, their legitimate, lawful right to strike, have still been harmed and undermined by the use of permanent replacement workers.

Mr. President, I know that the use of permanent replacements is a many faceted issue. But to me at its core, this is the question that it raises: should workers have the right to use the strike as an economic device during times when negotiations with their employers break down? That is really the question. Because that is the issue when permanent replacement workers are used.

It effectively destroys the lawful right to strike. The National Labor Relations Act of 1935 clearly guarantees the right of workers to organize and engage in concerted activities, and included in that series of rights is the right to strike.

Workers and management have always shared relatively equally in the risks and hardships of a strike. It is no picnic for either side. Workers lose income and their families, and often whole communities, face economic insecurity and the threat of losing their homes and their savings. At the same time, a clear incentive has existed for management to come to an agreement, as they struggle to maintain production and productivity in their market share with a more limited work force.

That is the relative balance that has existed in the past, prior to the early 1980's. Because of that balance, as a general rule, strikes were to be avoided by both sides, if possible, and that was the driving force behind the success of

collective bargaining and peaceful negotiations.

For many years, even during strikes, labor and management were able to cooperate and come to an agreement. That is what I observed growing up in a very strong General Motors-UAW hometown, Janesville, WI.

Management now often advertises—instead of negotiating, they advertise for permanent replacements, the moment a strike begins, sometimes even in advance. I have seen advertisements preparing to hire a nonunion force in anticipation and, in fact, in the effort to precipitate the strike.

The threat of permanently lost jobs casts a pall over the entire bargaining process and breaks down that mutual incentive to come to a peaceful collective agreement. Mr. President, as the power of the strike becomes more and more tenuous, the voice of the labor negotiators over his or her employment weakens considerably.

I do not believe, at a bare minimum, that Federal resources, Federal tax dollars, should be used to do more of this, to erode the power of working people. If the use of permanent replacements is allowed in federally financed work, we then become directly involved in further weakening the voice of the working sector of this country, or even maybe worse, maybe we are in the process here of silencing the voice of working people for good.

It reminds me, Mr. President, of an act of kicking someone when they are down. I am not saying that is the intention of the Senator from Kansas. In fact, she is the last person in this whole body that I would accuse of trying to kick someone when they are down.

I am afraid that the effect of this, the unwillingness to say the Federal tax dollars should not be used in order to assist the use of permanent replacement workers is, in fact, kicking working people when they are down, when they have seen many rough years, many years of unfair advantage to employers in management relations, many years of jobs being lost overseas, sometimes in the name of free trade, but often to the detriment of the people that have helped build this country.

During disputes between employers and employees, Government should at the very least act to ensure that both sides are playing on a level playing field. The Federal Government should not act to give an advantage to one side or the other.

At times, such actions in the past have given that advantage in the form of police protection for strikers and nonstrikers. At other times, in the form of court proceedings.

I might add that employers still have many options in overcoming or surviving a strike. There are many things they can do, apart from this very harsh act of using permanent replacement workers. They can hire temporary employees, they can stockpile inventory in advance of a potential strike, or assign supervisors to take over some aspects of production. I know this is not a first choice. But of course neither is striking ever a first choice of the working people who feel compelled to go on strike. These options exist for the employers. They have always been available to employers, and they are if no way limited by the President's Executive order.

Mr. President, last year the Washington Post ran an excellent editorial called ''Women and the Right to Strike'' which pointed out that as a class, women and minorities are the most in need of protection against the use of permanent replacements. They are overrepresented in low-skill low-wage jobs where it is easy to find and train replacements, while they are also in need of those jobs simply to meet the most basic necessities.

Mr. President, I find this attempt to prevent the Executive order in this case to be very surprising in light of the emphasis on welfare reform that has come through as a very important part of the so-called Republican contract. The notion of welfare reform, which I agree with, is that if somebody can work they should work.

If we are going to pass some important legislation this year to make that much more likely, what is the message of this amendment to those who are being encouraged to go to work? The message is, you will lose your welfare benefits, you will leave your children and go to work, you will not necessarily be guaranteed health care. As we know, we do not have universal coverage. We have universal coverage for the people on welfare, but not necessarily for those who work.

So this is the message that the new majority wants to give to people on welfare who want to go to work. Go to work, for maybe the same amount, maybe a little more, and you may have your jobs torn away from you in a very short period of time by the use of permanent replacement workers. No job security. No meaningful right to strike. It is the worst message we can possibly send to those people who are genuinely striving to leave welfare.

Mr. WELLSTONE. Mr. President will the Senator yield?

Mr. FEINGOLD. Mr. President, I am happy to yield to the Senator from Minnesota.

Mr. WELLSTONE. I gather from what the Senator has just said that he is trying to make a connection between welfare reform and welfare recipients—who are, in the main, women, single parents—being able to find a job they can count on. With ''a job you can count on'' meaning a decent wage with decent fringe benefits.

In the State of Wisconsin, has the Senator seen situations where workers have been essentially forced out on the strike and permanently replaced? Has the Senator actually seen that happen in Wisconsin? Can the Senator give, so that people know what this debate is about, are there some examples that come to mind, as a Senator from Wisconsin?

Mr. FEINGOLD. I thank the Senator from Minnesota for his question.

Mr. President, in response to the question, have we seen this happen in Wisconsin, the answer I am sorry to say is yes. Increasingly, through the 1980's and early 1990's, there were systematic efforts in certain places to use permanent replacement workers.

Among the ones that stick out is what happened to people in De Pere, WI, when International Paper chose to use permanent replacement workers. I held a hearing as a State senator, at the time, and heard some of the most compelling and troubling testimony I have ever heard as an elected representative from families that were broken by the loss of that job security that the Senator has described. In fact, I am quite sure that some of those folks were forced from being workers to being on welfare, as a result.

I saw the same thing near Milwaukee, in Cudahy, WI, another very tense, and difficult, public hearing when the story of that situation was laid out. Closer to my own home in Madison, WI, a lot of pain, a lot of hurt, and a lot of destruction of family—another value that the new majority likes to talk about.

In the context of the Stoughton Trailer strike involving UAW workers, I always like to say my very first political encounter as a kid was when my father took me down to the UAW plants in Janesville to the Walter Reuther Hall. I remember that the gatherings there, there were a lot of Democrats there, there were Republicans there, too, in those days. It was not necessarily a partisan issue. It was pretty good spirit there in the 1960's. But when I returned in 1988, to that same hall, it was not an upbeat spirit. It reminded me of a wake, because people felt absolutely dejected and abandoned because of the use of permanent replacement workers. We have had it all over the place.

I want to reiterate to my friend from Minnesota, Mr. President, it is a small percentage of the employers, but, unfortunately, sometimes it is some of the biggest employers. Sometimes it is some of the best jobs. And it cuts at the heart of the feeling that we want to be able to give people that if they do a good job for a company and come to work on time and produce a good product, they should be able to keep that job, generally speaking.

That is something that has to be as much a part of the American dream as home ownership or little league baseball.

Mr. WELLSTONE. Will the Senator yield for another question?

Mr. FEINGOLD. I am happy to yield.

Mr. WELLSTONE. Mr. President, this Executive order really applies, as I understand it, to Government agencies that work with contractors with contracts of $100,000, or more, and only in

cases where those contractors permanently replace striking workers, not temporarily replace, then the Government would no longer be willing to continue with the contract. Is that correct?

Mr. FEINGOLD. Mr. President, that is my understanding. It is not as extensive as the kind of law I would like to see passed.

Mr. WELLSTONE. And ultimately this would affect very, very, few companies because we have no reason to believe that most of the contractors doing business with the Government would engage in such a practice.

So my question is as follows: This debate now on this amendment almost becomes a debate about more than just this aim of the Senator was talking about welfare and the reports of welfare reform with jobs being key.

Does the Senator, based upon your experience in Wisconsin, does the Senator feel that this whole issue of permanent replacement of striking workers is key to the question of balance between labor and management so that people, working people in the country, whether they are in unions or not in unions, will have the ability to represent themselves and bargain and have a decent job at a decent wage for their family?

Has this amendment become really more of a debate about decent jobs for people, more of a debate about families having an income that they can live on, more of a debate about really working families and middle-class families; is that the way the Senator sees this?

Mr. FEINGOLD. In response to the question of the Senator from Minnesota, it almost has to become a broader debate. I do not believe it was the intent of the Senator from Kansas to have it be. I do not know how you can talk about just the narrow issue of particular companies, and I think the Senator from Minnesota is right that there maybe is not going to be Federal money to do this. But it does bring up the whole issue of what kind of consistency is there between this sort of amendment and the agenda that we have been talking about in this Congress and will talk about having to do with getting people to work.

Mrs. KASSEBAUM. I wonder if the Senator from Wisconsin will yield to me for a moment for a question? Going back to a question between the Senator from Minnesota and the Senator from Wisconsin a minute ago.

Mr. FEINGOLD. I will be happy to.

Mrs. KASSEBAUM. First, you implied this Executive order would not affect very many companies, that it will only touch on a few Federal contractors. I notice there is some confusion about this that maybe you can clarify.

There has been some question as to whether it would or would not affect the Bridgestone/Firestone strike for which, of course, there have been permanent replacement workers. For all intents and purposes, it has been thought that this Executive order was only proactive, not reactive. It states:

> The provisions of section 3 of this order shall only apply to situations in which contractors have permanently replaced lawfully striking employees after the effective date of this order.

In section 3, there is some confusion. It says:

> When the Secretary determines that a contractor has permanently replaced lawfully striking employees, the Secretary may debar the contractor, thereby making the contractor ineligible to receive Government contracts.

So I think it could be read that the Secretary of Labor could, as a matter of fact, go back and say that if there were permanent replacement workers, then the contractor could be debarred from Federal contracts. This places us, of course, right in the middle of a major management/labor dispute. One which, of course, is taking a real toll.

I would like to ask the Senator from Wisconsin, who has the floor, if he knows what the clarification may be? I think this could cause real confusion.

Mr. FEINGOLD. I defer to the Senator from Minnesota on that particular aspect, except to say when the Senator from Minnesota asked me how many firms do I think this would apply to, my saying I did not think it would apply to many firms was to the fact that I hope and believe most firms would not do this.

If this, in fact, does apply to the current situation you refer to, it would not trouble me. I am not going to represent what exactly that language does. I am happy to take a look at it. My view is that use of permanent replacement workers in any context where Federal dollars are involved should not be permitted.

That is what I would want it to be, but I did not, of course, draft the Executive order, and I would have to defer to the Senator from Minnesota if he knows the specific answer.

Mr. WELLSTONE. Mr. President, I thank the Senator from Kansas for her question. The President's Executive order would cover them, but the existing contract could not be terminated. It is my understanding that they would be barred from future contracts, and that is the distinction. I think that is the purpose of this Executive order.

I might also add that when I asked the question of the Senator from Wisconsin, my working assumption—which I think is a correct one—is that ultimately we are talking about what kind of companies might, in fact, engage in this practice, because the Senator from Wisconsin is correct; most companies are good corporate citizens and good businesses and do not engage in this practice. Probably we are talking about very few cases.

Mrs. KASSEBAUM. Mr. President, I appreciate the answer. I think it is still very unclear, and I think it indicates why there would be a lot of uncertainty about this Executive order. I appreciate the answer.

Mr. FEINGOLD. Mr. President, if I may conclude, I know the Senator from Minnesota wishes to speak.

The senior Senator from Massachusetts referred to the people who would be affected by the use of permanent replacement workers as the backbone of our country. That is exactly what they are. They are not the people who so many people like to rail against who are not willing to work who can work; these are people who work, who have worked hard, who report to work every day, many of whom have to have both parents working to make ends meet. They are trying awfully hard to make it. All they want is to know that this country, whether it be a Democrat majority or a Republican majority, is committed to helping them get to work and have a job and make an honest living.

I thought that is what this whole welfare debate is about; that everybody is better off if they are working and that if they are not working, they are taking advantage of the rest of us. That is what I thought it was about. I thought that is why so many working people are frustrated and irritated by our current welfare system.

What kind of a mixed message is it to kick people who are working and not guarantee them the right to strike at the same time you tell them get back to work and help us out in this society by working and paying your taxes and make our economy go? It does not add up.

This Republican agenda is contradictory. Are we for deficit reduction, or are we for tax cuts? Are we for getting people back to work, or are we for driving people out of work by the use of permanent replacement workers? Which one is it? Where is the sense of community? Where is the sense of helping somebody when they are down? Where is the sense of making sure that if somebody is really trying to work, that we will do whatever we can to make sure that that job has some stability, has decent wages, some rights, some health insurance. Which is it?

I believe that every Member of this body is committed to those principles in their heart, but when you look at the agenda and the way that it works at cross-purposes with an amendment like this, it is very, very troubling; and it is hard for me to tell the hard-working people in Wisconsin, those who are part of organized labor, in particular, that you really mean it, that you really mean it when you say you want people to work. If you want them to work, give them a fair chance to have a balance to keep those jobs when the management is being unfair.

Mr. President, I strongly oppose the Kassebaum amendment for the reasons I have outlined. I encourage my colleagues to vote against it.

I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. I thank the Chair. I thank my colleague from Wisconsin for his strong words on the floor.

Mr. President, I could read from my prepared statement. I think I would rather not. I just would like to try to lay out, if you will, the basis of my position and marshal evidence. I think that it is very important that the U.S. Government not be on the side of contractors who have permanently replaced their workers who have gone out on strike.

Let me say one more time, as I understand this Executive order, if the Secretary of Labor issues such a ruling and it is clear that a contractor with a $100,000-or-more contract has, in fact, permanently replaced striking workers, then that company could be barred from future contracts after the careful, deliberative process set forth in the order is exhausted. I think that is the key clarification.

I think that this Executive order is very important. I do not think it is very important so much because, in fact, it will end up covering that many businesses. I think it will be rather narrow in scope, but I think it is important that the Government be on the side of what I would call basic economic justice.

A word on the context, Mr. President. In the early 1980's, there was the PATCO strike, and many striking air traffic controllers were permanently replaced. I think what has happened—and I wish this was not the case, and maybe it had something to do with the mergers that took place in the 1980's, maybe it had something to do with different hard-nosed management approaches—but what happened really, with the PATCO strike I think being the triggering event, is that we moved into a different era of labor/management relations wherein the implicit contract between workers and management was torn up.

In addition, I would argue that in the international economic order—and the Senator from Illinois was quite correct when he said the United States almost stands alone among advanced economies without having some protection for a work force against being permanently replaced—I think the key for our country is going to be a trained, literate, high-morale, productive work force.

I know the Senator from Kansas agrees because I have seen her work and admire her work in promoting this.

I think the disagreement we have is that when people can essentially be crushed—and I have seen too many people who have been crushed in my State of Minnesota—when they go out on strike because they feel they have no other recourse but to do so, it leads to just the opposite of what we need when it comes to real labor/management cooperation.

The process is fairly simple, and I wish I did not have to identify this process. It is not an invention on my part. Too often, companies—I am very pleased to say not most companies, not most businesses—provoke strikes as part of a plan to replace striking workers and bust unions. And this is a relatively small number of rogue employers. I think, in fact, many businesses would greatly benefit from this reform because they are not the real culprits here. But too often, certain employers will force a unionized work force out on strike, permanently replace them, then move to have the union decertified. That is union-busting, plain and simple.

Now, Mr. President, it could very well be that part of this debate about this amendment—although I think the Senator from Kansas can speak for herself better than I ever could; I do not actually think this is her framework—but as I see it, as I analyze the votes on this amendment and this question, at least some of the votes, some of the votes are going to really have to do with the larger question than this amendment.

The larger question than this amendment is this Contract With America—I think it is more a con than a contract—that we see being pushed forward with a vengeance in the House of Representatives. The connection I make is that I think what we see happening right now—and it is why I come to the floor feeling so strongly about this amendment, because of this larger context—is an effort on the part of some of the leadership in the House to overturn 60 years of people's history. I actually do not think that this ''Contract With America'' is an attack on the 1960's. It is an attack on the basic reforms put in place in the thirties, which have served us well for decades.

Now, Mr. President, some of us, or some of our parents—in my case, I guess it was my grandparents—gave a lot of sweat and tears to make sure that in the 1930's we moved forward as a Nation with some protection for people against strikebreaking, some protection against the fear of being unemployed, some protection against jobs that paid wages on which people could not support their families. This is when we protected in law the right to form or join a union. This is when we developed some of our collective bargaining machinery. This is when we passed minimum wage legislation. This is when we passed Social Security. This is when, Mr. President, if we want to talk about contracts, we actually built a contract in the United States of America the purpose of which was a more just system of economic relationships for people.

But, more importantly, I think it was a huge step toward greater stability in the workplace, and toward greater fairness. We no longer said if you own your own large corporation and you are powerful, then you matter, but if you are a working family, you do not. This was an important contract.

Quite frankly, Mr. President, I see a real effort in the Congress, especially on the House side, to rip this contract up.

Mr. President, there are an estimated 14,000 workers that are covered by the NLRA that are permanently replaced each year by American employers and thousands more under the Railway Labor Act.

Now, there was a report done by the General Accounting Office in January 1991—and maybe there is a more recent report. I think all of us agree that GAO does very rigorous work, and in this report the GAO indicates that since 1985, employers have hired permanent replacements in one out of every six strikes and threatened to hire replacements in one out of every three.

Mr. President, the right to strike has become the right to be fired. You could, if you wanted to, just travel around the United States, and in State after State you could talk to priests, ministers, rabbis, mayors, small business people, union people, and others affected by long and bitter strikes that divided communities all too often precipitated by the use of outside replacements.

In my State of Minnesota, I could give many, many examples of men and women who essentially were forced out on strike. Nobody goes out on strike on a lark. But they were faced with a package of concessions that they could not make in terms of their own economic situation and their basic dignity. The companies knew they could do it to them. The companies wanted them out on strike. The companies then permanently replaced them and then decertified them. That is union busting.

Now, I think this Executive order just simply says that the U.S. Government will not be on the side of union busting. This Executive order—and again, that is why I think it is such an important issue that goes beyond this Executive order—says that the U.S. Government will be on the side of working families, that the U.S. Government will be on the side of collective bargaining rights, that the U.S. Government will be on the side of the right to strike, and that the U.S. Government takes the position that the right to strike should not become the right to be fired.

I do not know how many of my colleagues—maybe many or maybe very few—have actually visited with families who have essentially been wiped out because the husband or the wife or both were permanently replaced. I have. And I do not say ''I have'' to suggest that I care more about working people than anyone else. Many Senators do. We reach different conclusions, sometimes, as to the best way to support families.

But I have seen, and I will say this to my colleague from Kansas—I have seen too many broken dreams and broken lives and broken families, all caused by permanently replacing men and women. It is just shattering.

I will say this to my colleague from Kansas, I will, with every ounce of strength I have as a U.S. Senator, fight to end this practice. That is why this amendment assumes a larger importance than this amendment. That is why this amendment assumes a larger importance, and that is why this amendment must be stopped.

There were many of us—one is no longer here on the floor of the Senate because he retired, certainly he was one of my mentors, Senator Metzenbaum from Ohio—who fought and fought and fought for change. S. 55 would have been the change. That would have prohibited employers—I am not talking about just contractors with the Government—from permanently replacing striking workers. It was filibustered. Let me repeat that one more time. It was filibustered.

I remember meeting—I think Sheila came out with me—on a Sunday morning in Minnesota with a group of workers who had been permanently replaced. They were outside with their families. It was raining. Certainly there were as many women as men who worked for this company. I remember saying to them: I really have some hope that we will be able to pass this legislation.

I do not think they thought that meant they would get their jobs back. But it represented some real hope for them, because they had been very courageous. What this company asked of these workers, I say to my colleague from Kansas, was unacceptable. I do not think there is a Senator here who would have been able to have accepted those terms.

They went out on strike. They were scared to death. They knew they probably were going to lose their jobs, but it was a matter of dignity. You know, dignity is important to people.

I said: We have this piece of legislation and I believe the United States of America is going to join the other advanced economies by providing some protection for working people, working families. But we could not get a vote on it. It was filibustered.

Mr. President, now we come to this amendment by my good friend from Kansas, which is an attempt to effectively overturn the President's Executive order. The Executive order, which sends I think a very, very important and positive message to people in this country, which is that the Government is not going to be on the side of companies that permanently replace workers, companies that quite often force people out on strike, in keeping with a typical pattern—forcing people out on strike when people cannot accept these concessions which are unreasonable; then bringing in permanent replacements; then decertifying the union; and then busting the union. The U.S. Government will not be on the side of union busting.

I think this amendment also brings into focus on the floor of the U.S. Senate a whole question of this Contract With America. I believe that. I do not think that is the intent of the Senator from Kansas, but that is why I feel so strongly about this debate, about this amendment.

I say to my colleague from Wisconsin, what is now going on—actually legislation that is being passed on the floor of the House of Representatives—is beyond the goodness of people in this country. It is mean-spirited, because it targets the citizens who are the most politically vulnerable and who have the least political clout. That is why I have come out with this amendment on children over and over, which the Chair voted for and my colleague from Wisconsin voted for, to get the Senate on record in favor of ensuring that nothing we do this year will create more hungry or homeless children.

When I first came out with this amendment at the beginning of the session, a sense-of-the-Senate amendment, there were some colleagues who thought this is just symbolic. Some people said this is just politics. But, my gosh, look at what has happened on the House side, and what is coming over here to the Senate. We can see what is happening to the school lunch program, the school breakfast program, nutritional programs, the child care centers. Look at the headlines every day. The other day on the floor of the Senate I observed: Here is a front page Washington Post piece with a title, not ''Can Johnny Read?'' but ''Can Johnny eat?'' And you begin to wonder. This is not the America we know.

I insist that this debate is all about families. I know my colleague has a question and I will be pleased to yield, but if I can just make this last point. I think, whether we are talking about nutrition programs and children, whether we are talking about Pell grants, or low-interest loans for higher education; whether we are talking about affordable health care or whether we are talking about minimum wage; or the Small Business Administration—guaranteed loan programs, 8–A loan programs and the like—or whether we are talking about jobs, jobs that families can count on, jobs that pay a decent wage with decent fringe benefits—that is the core question here.

On this question I think the administration is in the right. I think this Executive order is extremely important and ultimately it gets down to the question, to quote an old song, ''Which Side Are You On?'' It happens to be an old labor song sung by Florence Reece—''Which Side Are You On?'' Which side is the Government on? Is the Government on the side of companies that permanently replace workers, that crush workers? Or is the U.S. Government, the Government of the United States of America, on the side of working people and working families?

I want to continue to speak but if the Senator has a question I will yield.

Mrs. KASSEBAUM. Mr. President, no, I do not. I would simply, though, make a statement. This is not about the Contract With America. This is not about whose side one is on. I would say to the Senator from Wisconsin, what this is about is the ability of the President, by an Executive order, to change the labor law of the land which has existed for 60 years.

The debate on whether to have a permanent replacement of workers can come at a different time. I am sure it will. It has through the past two Congresses. But that is what troubles me—and I know the Senator from Wisconsin has the floor. It is not a question so much as to state indeed what this debate is about.

Mr. WELLSTONE. Mr. President, I say to my colleague from Kansas that I respectfully disagree. The reason I say that is I do not believe that we can decontextualize this amendment proposed by my colleague from the reality of the agenda that is being pushed by the Republican Party in this 104th Congress. I believe all of the parts are interrelated. That is the way I view this amendment. I view this as being connected to all these other questions. Is there going to be adequate nutrition for children? Whatever happened to affordable health care? Are people going to be able to afford higher education? How come the proposed cuts are so targeted, as Marian Wright Edelman and others have said over and over again, on the most vulnerable citizens? Why are we not willing to raise the minimum wage? And what are we doing, coming out with an amendment that essentially tries to undo an Executive order that only says the U.S. Government ought not to be supporting companies that permanently replace workers, given, I think, a rather bleak and shameful history of the last decade or so as to what has actually been happening to working people in this country?

So I say to my colleague, I respectfully disagree.

Does my colleague have a question?

Mrs. KASSEBAUM. No. I will respond when the Senator from Minnesota yields the floor.

Mr. WELLSTONE. I thank my colleague.

Mr. President, I know the Senator from Iowa will be here in a moment. I will be pleased to yield the floor to my colleague from Iowa.

Mr. President, I would like to just quote from page 1 of a General Accounting Office report published a few years ago on striker replacement in the last 20 years. It is a summary to give some context for my remarks and my response to the Senator from Kansas.

The number of strikes in the United States during the 1980's was about one half what it was during the 1970's. More specifically, strikes declined about 53 percent in the 1980's compared with the 1970's. They estimate that in strikes reported to the Federal Mediation and Conciliation Service in 1985 and 1989, employers announced they would hire permanent replacements in about one-third of the

strikes in both years and hired them in about 17 percent of all strikes in each year. They generally found little difference in the use of permanent replacements by employers in large force strikes.

Mr. President, is this Executive order meeting a real need? Yes. Is there a precedent for it? Yes—ample precedent.

One more time I say to my colleagues that I believe there is a larger significance to this amendment than may originally be apparent. This amendment goes to the very question of workplace fairness. This amendment goes to the very heart of the Contract on America's assault on working families' ability to rely on jobs that pay decent wages with decent fringe benefits. This amendment is an attempt to undo an Executive order, I think, which is narrow in scope and which makes it clear that the Federal Government will not be on the side of companies which permanently replace striking workers. The Federal Government will not be on the side of union busting. The Federal Government will not, through taxpayers' money, support unfairness in the workplace. The Federal Government will side with regular working people. The Federal Government will side with working families.

And while I believe that this Executive order represents a lawful exercise of Presidential authority, I think it also represents something more. It represents a commitment by the President of the United States of America to many, many, many working families in our country.

Please remember, when I say working families, I mean union and nonunion, I mean the vast majority of people in this country who in fact are employed.

At this point, Mr. President, if the Senator from Kansas does not have a question for me, I yield the floor.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER (Mr. DEWINE). The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I want to respond to several things that have come up during the course of the debate this morning.

First, this amendment is not an effort to embarrass the President.

Second, I feel strongly that this Executive order sets a precedent that we need to carefully examine.

Third, we all care about justice in the workplace and for the workers. But it has been stated that this Executive order will actually restore the balance. That through this Executive order there will be balance that then will be maintained between management and labor. I argue that actually it will totally unbalance the labor/management relationship which has existed over 60 years under our Federal labor laws.

Sometimes it has been abused by management. Sometimes it has been abused by labor. It was stated that if management can hire permanent replacement workers, then it would be very unfair to the strikers. Why would, indeed, strikers not be able to have any voice at that point? Strikes have continued on, and at great loss to those who were striking, where permanent replacement workers have been hired. However, if you were to forbid any permanent replacement workers, then strikes could continue on forever and the workplace could be totally shut down. A business could be totally shut down. Leverage has to be equal on both sides.

I suggest that when discussing this Executive order it is very murky to talk about either Caterpillar or Bridgestone/Firestone because at some point large companies, in fact many companies large or small, have Federal contracts. This would say, if indeed a strike is ongoing—which Bridgestone/Firestone is—and there have been permanent workers hired, it does apply to them.

So I suggest the Executive order will not restore the balance between labor and management. It actually undermines it. This is not a debate about the minimum wage. This is not a debate about Davis-Bacon. This is not a debate about school lunches or child care or welfare reform—all the things that have come into play. It is indeed not about any of these.

I suggest to the Senator from Minnesota, because he cares passionately about this, that there could be a time when a Republican President could issue an Executive order banning all strikes. If you start down this slippery slope of totally disregarding labor law, the legislative authority to enact law, this could happen. Where authority to shape labor law should be is in the halls of Congress where it is determined through legislation.

There has been much talk here about President Reagan and President Bush by Executive order having done the same thing.

If I may, I will just go through this again. The Bush administration did issue an Executive order requiring Federal contractors to post a notice informing workers of their rights under Federal labor law. That is a given. That was not, in any way, changing labor law.

President Reagan, when air traffic controllers went on an illegal strike, did replace those striking workers with permanent replacement workers. There was legislation that followed in both the House and Senate wanting reinstatement of those fired air traffic controllers after a certain period of time, but this legislation did not pass. And that is why we get to the third one, Mr. President, which I suggest might be a little murkier—and I listened to Senator KENNEDY's arguments regarding the prehire agreements.

There are some, in fact, who believe that President Bush's Executive order was illegal although it was never challenged in court. It could have been challenged, just as I assume this Executive order will be challenged. Unlike the case of the prehire agreement Executive order, we are currently faced with a situation where Congress has declined to change the law for more than 60 years. I argue that this striker replacement Executive order has far broader implications. If we continue down what I have said is a slippery slope, I fear we may see future administrations that will then be trying to limit not only the rights of management but the rights of workers as well.

This is not the way we should determine major labor law—by an Executive order. I share many of the sympathies that have been expressed by either the Senator from Wisconsin or the Senator from Minnesota about the desire to see stability in the workplace, the desire for good wages, the desire for those who are working today to know they have a future in that workplace instead of uncertainty from month to month, if not year to year. But this is not the answer. And I suggest, Mr. President, that it creates an imbalance that will cause greater uncertainty in the workplace and greater instability in the workplace, not less.

As we look to the future of trade, productivity, and competition, we want to be able to be partners with both labor and management and try to realize a stable and productive workplace. But through this Executive order, we have undermined, I think, and further eroded a sense of trust and a responsibility that should exist between labor and management.

If we tie one hand behind management's back, or if someone finds a way to tie one hand behind labor's back, we have created imbalance. Who is to say what issue is fair or unfair? It cannot be done here. Many of us argue this about the baseball strike. We have said that Congress should not intervene in these strikes. There must be some credence given to the bargaining table, where management and labor have to come together, I hope, for the best interests of both sides.

That is what this argument is about. It is not about the Contract With America and all of these other extraneous issues. It is about an Executive order that takes away the rights of Congress to, by legislation, enact or reject legislation—in this case, affecting labor law, which has always been our prerogative.

We can have the debate once again on permanent replacement for striking workers at another time and in another forum. But this debate is simply about an Executive order. The reason I add it as an amendment to the defense supplemental is that many of those who have worked with defense contracts are the very workers and businesses that could well be affected by this Executive order.

That is why it seems to me to fit on the defense supplemental legislation before us today. I do not think there needs to be extended debate because I believe we all know what the issue at hand is and how we feel. I would be happy to enter into a time agreement.

I would be happy to have the vote in a limited amount of time, and stand willing to do so, Mr. President, if that will be agreed to by the other side of the aisle.

I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, first of all, I want to make it clear that when it comes to time agreements—and I think this is a sort of fundamental difference we have. This is a central, central, central question. One more time, I say, with all due respect to my colleague from Kansas, first, I think the significance of this amendment goes beyond the Executive order. I think it cannot be contextualized to what I consider to be really sort of assault on working families and middle-income families in America.

Second, I choose to define the issue differently. Each Senator has to make his or her own decision. But I believe this is a question of whether or not the Federal Government will be on the side of a practice which, unfortunately, has become all too common during the decade of the 1980's and early 1990's, which is essentially demanding concessions of a work force that you know they cannot make, forcing them out on strike, hiring permanent replacements, decertifying the union, and busting the union.

So the question is, is the Government of the United States of America going to use taxpayer dollars to encourage that practice, to be on the side of that kind of practice—the practice of union busting, of breaking unions, of driving many, many honest, hardworking people essentially out of work because they are replaced? I do not think so. I think it is a question of where the Government stands. This Executive order says we ought to have a Government that stands on the side of workplace fairness.

Actually, I heard my colleague from Illinois say earlier that this is but the beginning of what we should have done, which was S. 55, which joined all of the other advanced economies with legislation to prohibit this egregious practice. We would be so much better off—I will not repeat all of the arguments I made earlier—in terms of productivity and labor-management partnerships, and in terms of higher levels of morale.

I ask my colleague from Illinois whether it is his intention to speak on the floor.

Mr. SIMON. No.

Mr. WELLSTONE. Well, let me finish my remarks. I am expecting the Senator from Iowa to be here in a moment.

Let me just clear up this interpretation on Bridgestone-Firestone. Negotiations between Bridgestone-Firestone and the United Rubber Workers began in March of 1994, and the collective bargaining agreement expired on April 24, 1994. The United Rubber Workers called the strike against Bridgestone-Firestone on July 12, 1994. If the Executive order had been in effect, Secretary Reich would have intervened immediately by notifying the company that any effort to permanently replace its workers could cause Bridgestone-Firestone to suffer immediate termination of several million dollars worth of contracts it has with the Federal Government. This action might have been enough to persuade Bridgestone-Firestone not to permanently replace the strikers.

On January 4, 1995, Bridgestone-Firestone permanently replaced 2,300 striking workers, without any warning, by sending letters to the strikers at their home. If the Executive order had been in effect, Secretary Reich could have immediately investigated and made a finding that the company violated the policy in the Executive order, that the executive branch will not contract with employers who permanently replace striking workers, and notified all of the agencies that have contracts with Bridgestone-Firestone that they should terminate their contract. These agencies would have terminated the contracts, again putting pressure on Bridgestone-Firestone to attempt a reasonable settlement of the strike—the same kind of pressure that the strikers were under, I might add—at the time.

It also says, ''The Secretary of Labor may pursue a debarment action against Bridgestone/Firestone after the executive order takes effect. The debarment would block Bridgestone/Firestone from getting any new Federal contracts''—any new Federal contracts—''until its labor dispute is settled.''

The language is very clear. The interpretation is very clear.

Mr. President, I yield the floor to my colleague from Iowa.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Mr. President, I very strongly oppose the amendment offered by the Senator from Kansas. Instead of passing this amendment, we should be saluting the leadership of President Clinton in providing a good degree of protection for workers that Congress failed to protect last year in the striker replacement bill.

American workers and companies doing business of over $100,000 with the Federal Government can finally be assured that they will not be permanently replaced if they go out on a strike. While that represents only 10 percent of all contracts, this order will affect 90 percent of Federal contract dollars.

Over the past decade, a worker's right to strike has too often been undermined by the destructive practice of hiring permanent replacement workers. Workers deserve better. Workers are not disposable assets that can be thrown away when labor disputes arise.

When we were considering the striker replacement bill last year, the Senate Committee on Labor and Human Resources heard poignant testimony about the emotional and financial hardships that are caused by the hiring of permanent replacement workers. We heard of workers losing their homes, going without health insurance due to the cost of COBRA coverage, as well as the feelings of uselessness that workers often feel when they are permanently replaced after years of loyal and efficient service.

The right to strike, as we all know, is an action taken as a last resort, for no worker takes the financial risks of a strike lightly. I have never, in all my years, met one worker who would rather be on strike than he would be in the plant working. The right to strike is, however, fundamental to preserving a worker's right to bargain for better wages and better working conditions.

I challenge those who say they support the Wagner Act, and the right of collective bargaining, and yet say that if workers go out on a legal strike, that company can permanently replace them. In essence, that position means that there really is no right to strike; there is only a right to go out and be replaced.

And if there is no right to strike, then there is no right to collective bargaining. Because there is only one thing and one thing alone that the worker brings to the bargaining table and that is his or her labor. They do not have money to bring to the table. They do not have contracts. If they cannot withhold that labor, then there is no real effective bargaining position for labor. Then they are going to have to take exactly what management wants. If they do not take what management wants, then they can go out and strike, but then management says, ''We will bring in permanent replacements: you are done and you are out the door.''

So what we have in America today is no right to collective bargaining. It is a sham, a phony right.

The kind of rights that workers enjoy in other capitalist societies, whether it is Great Britain or France, all over Europe or even in Japan—and I will have more to say about Bridgestone—workers there do indeed have the right to strike, and they cannot be permanently replaced.

So only in America, the bastion of free labor, the country that gave the world the kind of laws under which labor can exert its legitimate rights and bargaining rights, this country has now taken a step backward of saying,

''No, there is no more right to collective bargaining in this country.''

Recent studies have shown that the stagnation we have seen in middle-class standards of living is closely correlated with the decline of unions and the loss of meaningful bargaining power. A Harvard University study showed that blue-collar incomes have dropped in constant dollars from $12.76 an hour in 1979, down to only $11.51, a drop of almost 10 percent. If unions represented just 25 percent of the work force, that wage would be nearly $12 per hour.

At the same time, workers are losing the benefits that unions were able to negotiate. Since 1981, fewer workers have health insurance, pensions, paid vacations, paid rest time, paid holidays, and other benefits. Without the bargaining power of a union, companies provide these benefits only out of the goodness of their hearts. Without the right to strike, a right that is theoretically guaranteed by law but that is in fact totally undermined by permanent replacements, workers have virtually no bargaining power left.

The right to replace workers is insidious. If one employer in an industry chooses to cut costs by breaking the union and cutting the workers' salaries and benefits and dignity, then all the other companies in that industry are faced with having to compete against a cut-rate, cutthroat business, or they are going to have to follow suit.

A company has to respond to its shareholders. It cannot be beat by the company that treated its workers shabbily. So, since it has to respond to its board of directors and the shareholders, they follow suit. It is insidious. It is like dominoes. One company starts it, other companies have to follow suit or they are going to lose market share.

Workers faced with being replaced have to make the choice of staying with the union and fighting for their jobs or crossing picket lines to avoid losing the job they have had for 10 to 20 years. Is this a free choice, as some of our colleagues would suggest, or is this not really blackmail? It takes away the rights and dignity of workers in this country.

What does it mean to tell workers you have the right to strike when exercising that right means that you will be summarily fired and replaced by another worker?

This is not about whether a company has to close its doors in the face of a strike. This only concerns the permanent replacement strikers. Permanent replacements are given special priorities in their new jobs, placing new hires above people with seniority and experience. We are not suggesting that replacement workers cannot compete for jobs. They just should not get special rights over and above those of the workers who have devoted their lives to the company.

As a nation, we have a choice: Continue down the path of lower wages, lower productivity, and fewer organized workers, or take the option pursued by our major economic competitors of cooperation, high wages, high skills, and high productivity.

We want to pursue that high-skill path. We must do it with an organized work force. We cannot do it with the destructive management practices of the past decade such as the hiring of replacement workers.

Instead, we need new approaches to management that foster enhanced labor-management relations and cooperative approaches that stimulate employee productivity and enable management to get the most from its employees' skills, brain power, and effort.

Our Nation cannot afford to limit our competitiveness through practices that promote distrust between our workers and our managers. Instead, we must work for the mutual interest of all parties. I believe the President's Executive order is a positive step toward such goals.

Mr. President, this is an issue of particular interest to my State of Iowa. In January, Bridgestone/Firestone, a large employer in the Des Moines area and other Midwestern States, announced the permanent replacement of nearly 3,000 workers involved in the strike against the company for better working conditions and fairer treatment by their employers.

The bargaining sessions had broken down and the employees exercised their legal right to strike. This is Bridgestone/Firestone, and maybe not too many people have heard of Bridgestone, but certainly everyone has heard of Firestone Tire and Rubber Co. Firestone sold out to the Bridgestone Corp., which is a wholly Japanese-based corporation based in Japan, which bought the Firestone Co. and now it is called Bridgestone/Firestone.

Many of the workers at the Bridgestone/Firestone plant in Des Moines are folks I grew up with. I come from a small town of about 150 people. Most of the people in that town either worked at John Deere or they worked at Firestone.

So I know what these people are like. They are good people. They are hard-working people. They are churchgoing people. They support their schools. They have good, strong families.

What does this say to our working people of this country? Certainly we have to understand we cannot just take people like that and throw them out on the trash heap. There is something about dignity, something about the fact that these people put in all these years for this company. And it is not as if they are asking for the sky and the Moon and the Sun and the stars in bargaining.

As a matter of fact, a couple of years ago, Bridgestone/Firestone asked the employees to do certain things, and they did. They asked them to increase their productivity at Bridgestone/Firestone. Let me read a letter from one of those employees sent to me in January of this year. This is quite a long letter so I will not read the whole thing.

Sherrie Wallace is a Bridgestone tractor tiremaker:

> I was raised to respect my peers, act responsibly to my community, do the very best I could on whatever I did * * *.
>
> When Bridgestone came to each of us asking for help because we were not doing as well as the company needed to do, we all did our best. They asked me for one more tire every day and to stay out on the floor and forego my cleanup time. Not only did I respond, so did each and every member of the URW. Not only did I give them the one more tire per day, I gave them three times what they asked for. Our production levels soared. We threw ourselves into our company believing that we all must succeed together in order to create a better way of life for all. The membership joined committees and we became involved, we gave them our hearts. We began to believe this company was different. We gave them our input to create a better working environment. To increase productivity we began to meet our production levels. We were proud of our company and our union. Together, we did make a difference. It is these things that make me wonder why does Bridgestone now demand such unreasonable demands?
>
> This is not an issue of money. It is an issue of work ethics, fairness to your employees, good working conditions, reasonable working hours and benefits.

Now, Mr. President, let me talk about this a second. It is not about money. Let me give one of the things that Bridgestone was demanding of its workers in terms of negotiating agreement. Bridgestone, for as long as I can remember—Firestone since I was a kid growing up—they always had three shifts a day.

I know the present occupant of the chair is from the State of Ohio, and I know they have a lot of industry there. I know that the three shifts, the 8-hour shifts, three shifts a day, has been pretty commonplace in our history of this country. Three shifts a day, 8 hours a day. And as a person goes up the seniority level—obviously, when you start at a plant you get the graveyard shift. Stay there longer, you get the evening shift. And after a while you work up and you get the day shift.

That has been a well-accepted practice in our country for a long time. At least with that kind of working condition, you knew when you went to work, when you came home, you knew when you had time off to be with your family.

Here is what Bridgestone wanted their employees to do; not three 8-hour shifts a day but two 12-hour shifts a day and there would be three shifts. So here is what it would do: You would be on 3 days working 12 hours and then you would be off 2 days; then you would be on 2 days working 12 hours, and you would be off 2 days; then you would be on 3 days 12 hours, and off 2 days; then you would be 3 days on and 2 days off. See what they are getting at?

How would you ever know when you will be home with your family? How could you plan a Little League activity on Saturday or Sunday? You might be home one Saturday, and then you

might not be home for a couple Saturdays after that. You might be home in the middle of a week. When you work 12 hours a day, how do you spend time with your kids and family?

I have to say, Mr. President, who knows as well as I do, that a lot of these people, now both husband and wife are working. Take one of them working a 12-hour shift and the other might be working an 8-hour shift someplace else. They have precious little time together. This is what Bridgestone is demanding.

I said Bridgestone is a Japanese company. Do they do that in Japan? No. They have three 8-hour shifts a day, with the seniority system. Would they ask their workers in Japan to go to a rotating 12-hour shift? Not on your life, because they have agreements with those workers. If they tried to do something like that, they would have a strike and in Japan they cannot permanently replace those workers. But they can here.

Well, like Sherrie Wallace said, it is not even an issue about money. But if we want to talk about money, we will talk about it a little bit. A person might think, however, that Bridgestone probably has better productivity and lower wages in Japan. Not true. Productivity is higher here per worker in America.

Mr. President, the average annual wage of a Bridgestone/Firestone employee in Japan is $52,500 a year. The average wage for that same Bridgestone/Firestone employee in the United States is $37,045.

But this issue is not about the money. That is not the point. The point is, what kind of working conditions are they going to have? Are they going to be able to spend time with their families? I might add as a postscript, since the last time I gave this speech on the floor about this—Senator SIMON and I have worked very closely on this—Senator SIMON got hold of the Bridgestone people at their headquarters in Tennessee. They agreed to come back, sit down and talk. And I came out on the floor and congratulated them. I said, ''I am glad to see that. Maybe we will get some movement here.''

What has happened since that time is the Bridgestone/Firestone people basically came in and said, ''Here is our offer, take it or leave it.'' That is not talking, that is not negotiating.

Since I last took the floor to talk about this, it looks like Bridgestone/Firestone had no intentions to sit down and bargain in good faith or negotiate at all. We thought they were; we hoped they were. The workers even agreed—even agreed—to save their dignity and to save their jobs, they agreed to go to the 12-hour shift. I do not think they ever should have agreed to it, but they did. Guess what Bridgestone/Firestone said? That is not enough. They want further concessions.

I think it is absolutely clear that in the case of Bridgestone/Firestone they only want one thing: Bust the union, drive down the wages to the lowest possible unit they can get, squeeze them as much as possible.

Mrs. KASSEBAUM. I wonder if the Senator will yield for a question.

Mr. HARKIN. I will be delighted to.

Mrs. KASSEBAUM. I do not want to get into a debate about Bridgestone's policies in this country, but wouldn't the Senator from Iowa agree that labor law is very different in Japan? So I think that when you say that in Japan they could not do this, this is because they have different labor laws in Japan and seldom have strikes. I do not think it is an exact comparison about what they may be trying to do in the United States versus the fact they would not do it in Japan. There are many reasons they cannot do it in Japan, is that not correct?

Mr. HARKIN. Is the Senator saying—

Mrs. KASSEBAUM. They do not strike in Japan.

Mr. HARKIN. But they have the right to strike and they can strike and they cannot be permanently replaced. It is against labor law in Japan to have a striking worker permanently replaced.

Mrs. KASSEBAUM. We can debate the differing interpretations of Japanese labor law, but I do think it is different. I just wanted to say that I think it is unfair to compare the two. At some point, I will go into it, but I wanted to make that point. I thank the Senator.

Mr. HARKIN. I appreciate the Senator. I will be glad to engage in more dialog if my friend from Kansas would like to do that. I am not suggesting the labor law in Japan is the same as in United States. I am just saying in regard to this one company, what they are doing here in the United States of America they would not be allowed to do under Japanese labor law. That is all I am saying.

I know labor laws are different, but they would not be allowed to do in Japan what they are doing in this country. That is the point I am making.

I want to make a further point, too, that I do not want to be accused of Japanese bashing. The fact is, most Japanese companies that operate in America do not operate in this way. In fact, a lot of the Japanese companies that operate here have darn good working relationships with their workers, with organized labor. They have sat down at the bargaining table and have bargained in good faith. In fact, in many ways, they have been better than some U.S. companies, as a matter of fact.

I am not saying this is endemic of all Japanese companies. In fact, this is a rogue Japanese company, quite frankly. I think it is casting a bad light over a lot of other Japanese companies. We said that to the Ambassador from Japan—and others said it to the Prime Minister when he was here. If you get one bad apple in the barrel, like Bridgestone/Firestone, it can spoil the whole barrel.

I will be glad to engage in any further dialog with the Senator from Kansas on this issue later on, if she so desires.

Again, my point was that Bridgestone/Firestone I do not believe now is acting in good faith. I thought before maybe these were bargaining techniques, to hold out a little bit. We have been through this before. But after the last instance in which they indicated they were going to sit down and bargain and talk and then they just basically said, ''Here is our offer, take it or leave it,'' it indicates to me that if they ever were bargaining in good faith, they certainly are not operating in good faith right now.

I wanted to finish a little bit more of Sherrie Wallace's letter.

You can not know how betrayed we American workers feel. You can not know the hours of fear and heartache we have endured. You can not know how we fear for our safety when we are on the picket lines. We are just average family people pursuing a dream called the ''American dream.''

Many of us in the plants have injuries that we have substained because of our employment at Bridgestone. Back injuries, muscle tearing, joint replacement, arm injuries, carpal tunnel, cancer and asbestosis these are just a few. Many of our brothers and sisters have died because of conditions at these types of companies. Many of us just can't get another job. Who would hire half a man or woman. We can't stand to lose our jobs. There is no place else to go. Many of us are unfit to work anywhere else. Where do you go to work when your arms hurt you so badly you finally have to have surgery. Yet knowing full well you will never fully recover from the physical and mental abuse you have endured. You know that the pain will never fully go away. Your physical abilities will never be the same. It is unconceivable that this company would throw you aside like a piece of used up machinery. But they did and they still do.

* * * You see, we are one of those families that both husband and wife work at Bridgestone/Firestone * * *. We both have lost our jobs, our benefits and our livelihood. We have had days and nights of no sleep, wondering where our life is heading. Trying to keep the ''American dream'' alive with dignity, conviction to stand up for what you believe in and hope * * *.

Mr. President, I ask unanimous consent to print the letter in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

JANUARY 8, 1995.

Senator HARKIN.

DEAR SENATOR HARKIN: You have been on my mind since the day I heard you speak in Des Moines, Iowa at our local 310 United Rubber Workers rally in December. I was so proud of you. I was proud that you represented me and my family. You gave me hope for my future when at a time like this there seems to be no bright future. You seem to know my frustrations, my pain and my intense anger towards a foreign owned company who truly treats their American Worker as a second class citizen. In Japan it is illegal to practice those same work ethics that they are attempting to establish in the American Bridgestone Memberships.

I was raised to respect my piers, act responsibly to my community and to do the

very best I could on whatever I did. So it is very hard for me to understand their lack of respect for their American laborer.

When Bridegstone came to each of us asking for help because we were not doing as well as the company needed to do. We all did our best. They asked me for one more tire everyday and to stay out on the floor and forego my clean-up time. Not only did I respond, so did each and every member of the URW. Not only did I give them the one more tire per day, I gave them three times what they asked for. Our production levels soared. We threw ourselves into our company believing that we all must succeed together in order to create a better way of life for all. The membership joined committees and we became involved, we gave them our hearts. We began to believe this company was different. We gave them our input to create a better working environment. To increase productivity we began to meet our production levels. We were proud of our company and our union. Together we did make a difference. It is these things that make me wonder why does Bridgestone now demand such unreasonable demands?

This is not an issue of money. It is an issue of work ethics, fairness to your employees, good working conditions, reasonable working hours and benefits.

You can not know how betrayed we American workers feel. You can not know the hours of fear and heartache we have indurred. You can not know how we fear for our safety when we are on the pickit lines. We are just average family people persuing a dream called the ''American Dream.''

Many of us in the plants have injuries that we have substained because of our employment at Bridgestone. Back injuries, muscle tearing, joint replacement, arm injuries, carpal tunnel, cancer and asbestosis these are just a few. Many of our brothers and sisters have died because of conditions at these types of companies. Many of us just can't get another job. Who would hire half a man or woman. We can't stand to lose our jobs. There is no place else to go! Many of us are unfit to work anywhere else. Where do you go to work when your arms hurt you so badly you finally have to have surgery. yet knowing full well you will never fully recover from the physical and mental abuse you have indurred. You know that the pain will never fully go away. Your physical abilities will never be the same. It is unconceivable that this company would throw you aside like a piece of used up machinery. But they did and still do!

Please do not let forty-six years of continued bargaining for better wages, vacations, working hours, working conditions, health benefits and retirement, everything a union stands for, be destroyed in one six month struggle with one foreign owned company end. Because in reality the Japanese owned Bridgestone tire manufacturer wants an economical advantage over the other American tire manufacturers that are doing fine with the same contracts we are striving for. In the process they will undermine those businesses causing a domino effect, which will undermine American economics. If this is let to happen the process will undermine those American businesses causing them to do the same thing this Japanese company is doing which in turn will undermine the American economy.

Where do you go to work when you have worked thirty-three years at Bridgestone? You are to young to retire and no one else wants you because you are too old for them. What do you do? There is no money coming in, no job, and no hope of a decent job. You lose your home, your car and sometimes through all the tears and frustration you lose your wife, and if your young enough, your children. What do you have left? You have even lost your self respect.

What about if both parents work at Bridgestone. The entire family becomes a disfunctional family. Even young children feel the pain. These are not scenearious, they are true life stories.

The Japanese tire companies in this country got together and became the unholy alliance. Their goal was to try and break the membership. They deliberately set out to undermine our contracts, our work ethics and to destroy our integrity. The other Japanese companies failed to accomplish their entire goals because they are small companies and could not economically continue to lose their cash flow. Bridgestone has several tire manufacturing plants in foreign countries. It is those plants that are supporting them now. The greatest concern I have is knowing that we are not the first union that will have this problem. There will be more union brothers and sister that will fall.

I am so perplexed—why hasn't our government seen the dangers and helped her people? Why doesn't our Congressman help? Why do not our leaders that we elected into office see that her American working middle class people need their help? What is it we have to do to get your help? Violence has already broken out. Have our congressmen forgotten why we elected them? There is a great need for a change in our laws. We need laws to protect our working citizens and to prohibit replacement workers. We need our Congress, governors and President to take off their blinders. Stop turning the other cheek. We need you now!

Please please help this kind of thing to never happen again. This is just a beginning of a big war with foreign owned businesses to continue to strip American workers of their dignity, their values and to undermine the American family.

Please restore my faith in our American Government! Let me see that our people still are important to you. Let me see that the little guy is still in your hearts and minds. Please help me keep the pride in my heart when I help my son study his American history. When we read about the famous ride of Paul Revere or of Ben Franklin the father of knowledge and George Washington the father of our country that the tears of pride and joy fall down my checks and when he sees them I can smile and tell him this great nation and her great leadership is still that strong, determined, fair and brave people they were two-hundred years ago. Do not let him see the tears of pain that I now cry and the dispair I feel show in my eyes. You see, we are one of those families that both husband and wife work at Bridgestone/Firestore in Des Moines, Iowa. We both have lost our jobs, our benefits and our livelihood. We have had days and nights of no sleep, wondering where our life is heading. Trying to keep the ''American Dream'' alive with dignity, conviction to stand up for what you believe in and HOPE * * *.

Please hear our plead for help * * * Over 25,000 employees, spouses and children will be effected by this one American-Japanese incident. If this is not stopped, more heartache will follow. Please don't let us down! May God be with you.

Sincerely in hope,

SHERRIE WALLACE,
Bridgestone Tractor Tire Builder.

Mr. HARKIN. Mr. President, that is a letter from the heart. This is not a canned letter. That letter comes from the heart. I do not believe I know Sherrie Wallace personally, but I sure know a lot of people like her, and I know some of my cousins are in the same situation. It tears your heart out when you see them and when you talk to them. These are people who have given their lives—like I said, it is not as if they were shirking, it is not as if they were cutting down on productivity. In fact, the productivity at that Bridgestone/Firestone, as Sherrie Wallace has said in her letter, has gone up in the last couple of years.

The company they went to the State of Iowa in the 1980's and said, ''We need some help, we need government help or we can't exist. We have all these workers here and, oh my gosh, we have to have government help.''

Here is what they asked for: They asked for grants of $1 million from the State; $300,000 from Polk County; $100,000 from the city; $100,000 from Iowa Power; $50,000 from Midwest Gas. They asked for that in May 1987, and in June 1987, they received all the grants.

In July 1987, they got their $1 million from the State of Iowa. That same year, they went to the workers and said you have to take cuts or we cannot exist. So the workers took another $4 an hour cut in wages and benefits in 1987. So they asked the workers to produce more. In October 1993, the Des Moines Bridgestone/Firestone plant profit was $5 million ahead of their budget schedule. In March—get this now—1994, the workers reached a new high of 80.5 pounds per man-hour and set an all-time record for pounds that they had in the warehouse.

The company boasted that they did it with 600 fewer workers. So like Sherrie said, they came and they said build me an extra tire a day. They went out and built three extra tires a day. They asked them to take wage cuts. They did. They took wage cuts, actually in the latter part of the 1980's, totaling over $7.43 an hour. So they increased their work productivity, took their wage cuts, and Bridgestone/Firestone gets almost $1.5 million in grants from State and local governments.

And in March—this is important—of 1994 they reached this record production level, an all-time record for pounds warehoused. And guess when it was that Bridgestone/Firestone said they would not negotiate further and forced the workers out on strike? You got it, the summer of 1994. After they had pushed their workers, got the production up, got all this stuff warehoused, then they said: OK, now we are not going to bargain with you to reach an agreement.

I have said it before, and I will keep saying, I think Bridgestone/Firestone is perhaps the prime example of corporate irresponsibility and bad faith more than any company I have ever seen in this country.

Again, these are very hard-working people. Times are a little better. The company is making a good profit. Workers just want fair treatment. That is all they want.

What did President Clinton say in his Executive order? He said something very important to the workers at Bridgestone/Firestone. He said we are

not going to continue to take your tax dollars and then use them in the Federal Government to buy from Bridgestone/Firestone those tires since they will not even negotiate in good faith with you.

I think that is the right decision. I am proud of President Clinton for making that decision. I think the workers who work at that plant ought to have the assurance of knowing that their dollars are not going to buy those tires for the Federal Government.

The President's action is entirely lawful, fully within his authority, and conforms with the practice of previous Republican Presidents in labor issues. President Bush issued Executive Order No. 12818 in October 1992 that prohibited prehire agreements in Federal contracting. These are collective bargaining agreements that set labor standards for construction work prior to the hiring of workers. Yet, I did not hear any of our colleagues on the other side of the aisle complaining then that President Bush had exceeded his authority. That's because he issued an Executive order that came down on the side of business, not on the side of workers.

President Bush also issued an Executive order to implement the Beck decision concerning the use of union funds for political purposes despite legislation that was then pending. At that time, Congressman DeLay, who is now the House Republican whip, said that Bush's action was, and I quote, ''* * * * an effort by the President to do something through Executive order that he cannot get Congress to do.''

What is sauce for the goose is sauce for the gander. When the Republicans controlled the White House and not the Congress, this kind of Presidential policy happened all the time. Back then, I did not hear a peep from our friends on the other side of the aisle concerned about a President stepping on the prerogatives of Congress. In fact, they applauded the action.

So, Mr. President, although I know it is allowed under the rules of the Senate this amendment is not in the best interests of the workers of our country. It is not in the best interests of our economy. It is not in the best interests of labor relations in this country. The President has the authority. He acted lawfully.

The fact is, we had the votes to pass the striker replacement bill last year. It passed the House. President Clinton said he would sign it. It came to the Senate. We debated it. We voted. We got 53 votes on a cloture motion, seven short of the number needed. But the majority of the Members of this body voted to pass the anti-striker-replacement bill. So it is not as if the President did something that Congress was totally opposed to. A majority of Congress supported that action.

This amendment is one I think we are going to have to talk about, and I do not think it is in the best interests of this country. I think we ought to reject it.

There are those, Mr. President, who might say that the workers at Bridgestone/Firestone have not been permanently replaced. I have a letter here from Gary Sullivan, and it is a copy of a letter that was sent to him by—I think the name is Lamar Edwards, labor relations manager for Bridgestone/Firestone. Here is what the letter says:

> On January [and then it is handwritten in] 19, 1995, you did not report to work because you were on strike and you were permanently replaced. Please address any questions you have to the Labor Relations Office.

Not even ''Sincerely,'' just ''Lamar Edwards, Labor Relations Manager.''

Gary Sullivan wrote me a note on this letter.

> This is all I'm worth after 24 years of devoted and loyal service. Please continue to hang in there. We need your help. Gary Sullivan, Sr.

Not even so much as a thank you for 24 years. No thanks for increasing productivity, no thanks for taking the wage cuts you did in the 1970's to help get the company back on its feet. No thanks for your tax dollars that came from the State of Iowa or the county of Polk to give us grants to help get us back. No, nothing like that. Just out the door.

There are those who are saying these people have not been permanently replaced. Well, here is the letter. I ask unanimous consent that a copy of this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

> This is all I'm worth after 24 years of devoted and loyal service. Please continue to hang in there, we need your help.
>
> P.S. I'll help you all I can on election day.
>
> GARY R. SULLIVAN, Sr.

G.R. SULLIVAN,
Des Moines, IA:

> On January 19, 1995 you did not report to work because you were on strike and you were permanently replaced.
>
> Please address any questions you have to the Labor Relations Office.
>
> LAMAR EDWARDS,
> *Labor Relations Manager.*

Mr. KENNEDY. Will the Senator yield on that point?

Mr. HARKIN. I am delighted to yield to my colleague.

Mr. KENNEDY. Mr. President, I have been listening to the Senator from Iowa and I certainly hope my colleagues have paid attention to the last few moments of the Senator's presentation. I hope they listen to the whole presentation, but particularly the latter part of it highlights what this debate is really all about.

As I understand it—and I would appreciate the Senator correcting me—here was a person who had worked for a particular company over virtually a lifetime. The company was successful, and reaped large profits. This worker tried to enhance his own and his family's economic condition—trying to at least participate in the growing success of his company—by using the accepted, standard practice in this Nation since it has been a great industrial power, of joining with his colleagues to advance their economic interests and the interests of their children in a company that had been very successful. And he was virtually fired—although technically that is illegal under the National Labor Relations Act. But effectively, that person was thrown out of that job, terminated and permanently replaced, in terms of any chance for the future.

We are talking about hard-working families, people who are playing by the rules, people going to work, trying to educate their children, and effectively they are dismissed, put out on unemployment compensation and perhaps even onto the welfare rolls.

As I understand it, what this Executive order says is that we are not going to tolerate that. This President is not going to tolerate that kind of activity when it comes to Government contracting, where there is a Government contract which is effectively being paid for by the people's taxes. Under the Executive order we are not going to perpetuate that kind of injustice to workers who are being treated like that.

My understanding is, the order only applies if there is a legitimate strike—we are not talking about the termination of the contract. My understanding is further that it is only in these circumstances, as in the example the Senator from Iowa gave, where we have someone who has been a hard-working person, effectively replaced, thrown out of his job. And what this Executive order is saying is that we are not going to use American taxpayers' funds to encourage or support or perpetuate that kind of activity in the United States of America. When it comes to the taxpayers' funds, this President has a responsibility, and he is not going to continue to support or encourage that activity; he is saying: in those circumstances, we will not grant contracts to those kinds of companies.

Am I correct in understanding what the Senator's position on this is?

Mr. ABRAHAM assumed the chair.

Mr. HARKIN. The Senator from Massachusetts is absolutely right. He has distilled it down to its essential points.

It really says something. I do not know if the Senator was here when I was reading the history of Bridgestone/Firestone. They went to the State of Iowa and they got all this money, taxpayers' money, to build their plant up. Then they asked the workers to take all the cuts in wages. Now they are out on strike and replacing them.

It is all right for them to get taxpayers' money, I guess, in order to get their plant up and working. Then they go ahead and fire the very workers who paid those taxes. But it is not all right for us to say that taxpayer dollars are not going to be used to buy products made by a company that refused to

bargain reasonably, that treated their loyal workers like used-up equipment.

Talk about a double standard. We are saying: Listen, Bridgestone/Firestone, you already had your hand in the till. You already took money before from the State government—I say, not the Federal, the State, county, and local government. Then you cannot be complaining now when we are saying we are not going to use taxpayers' dollars to enhance your position.

Mrs. KASSEBAUM. Mr. President, I wonder if the Senator from Iowa will yield for a moment, again?

Mr. HARKIN. Yes.

Mrs. KASSEBAUM. Mr. President, in response to the Senator from Massachusetts saying a family had worked a lifetime at Firestone, is it not correct to say that Firestone was going broke when it was purchased by Bridgestone? So the future of the workers at the old Firestone Co. was in some jeopardy at that time. Not to go into, again, a lengthy debate on the practices of Bridgestone, but, at the time the whole issue was not wages so much as hours. The Senator from Iowa has already discussed that. But they said they needed to do the shift in hours to cover capital costs.

When you mentioned what Iowa chipped in and asked the taxpayers to spend in support of Bridgestone. Was that not something that was debated, at least, in the Iowa Legislature? Or was it a decision made by the Governor, I suppose, on how much taxpayers' support would be given to Bridgestone at that time? It was not something that was done without some approval somewhere along the line, isn't that correct?

Mr. HARKIN. Absolutely. I think the legislature, I think Polk County, all agreed to give them these dollars, these grants.

Mrs. KASSEBAUM. So these very workers who were in jeopardy of losing their jobs because the company was going bankrupt now have at least had an opportunity, if they so chose to do so, to work for a company that is productive and is going strong.

Whether or not they should have done it by replacing striking workers, I would argue, is not what we should be debating here. I suggest to the Senator from Iowa, we can have this debate at another time.

But what we should be debating here is something that follows on just the past weeks and months of debate that we have had on the separation of powers regarding the Constitution. That is why I feel we ought to take seriously this Executive order.

I do not mean to intrude on the time of the Senator from Iowa, but I think that if you get into the particular situation of Bridgestone/Firestone it was not a question of long-time workers somehow being forced out in the cold. There was a great tragedy that Firestone was teetering on the edge of bankruptcy and was going under. But I would like to go back to the fundamental issue here, which really is the separation of powers.

I yield and thank the Senator from Iowa.

Mr. HARKIN. I would just respond by saying I do not know where the truth lies in this. But I would say to the Senator from Kansas, there is some evidence that the Bridgestone Corp. overbought. They overpaid for Firestone. As a result of that, they tried to get in a more competitive mode by doing the things that I mentioned.

For example, they asked the union members to take $7.43 an hour cuts, from 1985 to 1990.

They got their taxes reduced in the county in which they reside. They got the grants to get going again. And, as Sherrie Wallace said in her letter: We were willing to do that to save our jobs. They asked me to produce one more tire a day, I produced three more tires a day. As I pointed out, in March of last year they reached an all-time high for productivity. So the plant is making a lot more money. They are much more profitable. Yet, they are not sharing some of these profits with the workers. The workers took their cuts, I respond to my friend from Kansas, in the 1970's; big cuts. The taxpayers coughed up a lot of money to get this plant going and to help Bridgestone make it. They have now made it. No one—not even Bridgestone—is claiming that they are not making good money now. They are making a lot of money. They are very profitable.

So instead of saying, OK, Mr. Sullivan. You have worked here for 24 years. You took a lot of cuts in the seventies. We got our plant going again. Instead of saying we are going to raise your wages a little bit, give you a little bit better deal, no. Take more cuts. Instead of working 8 hours a day, we will make you work 12 hours a day. That is what they are saying to them.

I again point out to my friend from Kansas that I have cousins working all over the place in the tire industry. I have a cousin who is one of the negotiators for Armstrong Tire, another tire company in Des Moines. They went out on strike. But they got back together and they sat down and negotiated. They reached an agreement. Goodyear did the same thing. They reached an agreement.

But then what this company has come in and done—that is why I talk about this kind of path the company is taking—is insidious because Bridgestone/Firestone is able to do this. They have put Goodyear and Armstrong and Dunlop at a competitive disadvantage. Goodyear acted in good faith. They went out and bargained. They reached agreements. They signed a contract. The Goodyear workers are happy. They are organized, union, and everybody seems to be happy with them. And Goodyear is making money. But now Bridgestone comes in and undercuts them with this kind of depressing of wages and getting rid of long-time workers. What is Goodyear going to do? What are they going to do? They say, well, they have to answer to their shareholders, too. That is what is so insidious about this.

Mrs. KASSEBAUM. Mr. President, I say to the Senator from Iowa that I cannot disagree with what he is saying. But then, would you turn right around and say that the President of the United States should enter into and completely change the dynamics by intervention? I think what we are debating about is what authority the President has to tilt the balance of what we really have felt was a balance. And I am sympathetic with what the Senator from Iowa is pointing out; that Goodyear worked it out and they did not at Bridgestone. But I argue that through this Executive order we now find the President completely intruding in a labor-management relationship. If we find legislation to decide to do so and have that debate and vote, that is a different matter. But I think the Senator from Iowa certainly recognizes that we have some question about what is in the Constitution and the separation of powers between the executive and the legislative branches.

As much as I am sympathetic with the argument that the Senator from Iowa is pointing out, the argument I would want to make on this amendment is the way we are trying to intrude on law that does exist. That is my point. I think the case made is one that obviously resonates, but this is the wrong way to handle it.

Mr. HARKIN. Mr. President, again the Senator was here in 1992 when President Bush issued Executive Order No. 12818, October 1992, that prohibits prehire agreements in Federal contracts. These are collective bargaining agreements that set labor standards for construction work prior to the hiring of workers. Again, this is labor-management. Yet, we interfered. Maybe the Senator did speak out against that at that time. I do not remember.

Mrs. KASSEBAUM. Mr. President, did the Senator from Iowa speak out against it?

Mr. HARKIN. No. Because there are times when a President can, in fact, issue Executive orders. I am not speaking out against this one either.

Mrs. KASSEBAUM. Mr. President, let me suggest to the Senator from Iowa, that there were those who questioned the legality of the prehire Executive order, but never challenged it in the courts. While it was a bit questionable in my mind, I did not challenge it.

But I think in this case we have a situation where Congress has addressed striker replacements the past two Congresses, and labor law matters generally for over 60 years. We can argue whether President Bush's prehire contract Executive order should have been challenged. That is debatable. As the Senator says, he did not challenge it because he agreed with it. I would suggest President Bush's prehire contract

Executive order has worked successfully. In all honesty, Mr. President, I probably did not think about it much at the time. But I suggest that this Executive order goes even further. That is my concern.

Mr. HARKIN. Again, I appreciate the frankness of the Senator from Kansas. To be honest, I did not know about it myself. I am saying that these things take place by a President. Quite frankly, they have a right to do so in these kinds of situations.

It just seems to me that President Bush issued this Executive order, the one on the Beck decision, and the whip on the House side said that a President will do something by Executive order that he cannot get Congress to do. This is the same thing here, although in another way Congress wants to do something about striker replacement. The House passed it last year. The Senate voted 57 votes. It is only because of the filibuster rule that we were unable to pass it and get it down to the President for his signature.

So again, I say to the Senator from Kansas that I think we have every right for the President to do this. It is perfectly lawful. But this is not really the place for this amendment. We are on the supplemental appropriations bill. This is not the place for this kind of an amendment.

Again, Mr. President, I close my remarks by saying that we just cannot continue to use taxpayer dollars to subsidize—that is exactly what it is any way you cut it—companies that say to those same taxpayers I do not care how long you have worked here, and I do not care if you are exercising your legal rights, we do not care. We are going to permanently replace you. Well, I think it is time for us to say that we are not going to subsidize them anymore. That is exactly what we have been doing. That is what President Clinton's Executive order does. I wholeheartedly support it. I think it is a step in the right direction and a courageous decision by the President.

I am going to do everything in my power as a U.S. Senator, regardless of how long I have to stand here, how many days it takes, to make sure that Executive order can go forward and this amendment is defeated.

I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I thank our friend and colleague for his excellent presentation on this issue and for the focus that he has brought to this issue. The fact of the matter is that the President is entitled to make these judgments. In terms of his contracting authority, the President is charged with oversight of billions and billions of dollars. The President has the responsibility to be sure that we are going to get a dollar's worth for the dollar expended.

What basically is at risk here is quality. The fact is, that when you have replacement workers, and you have individuals who do not have the appropriate training, who do not have the necessary skills, who do not have the ability, you are putting at serious risk the results and the quality of the purchases. We have seen that time in and time out. One of the great authorities on this is a fellow named John Dunlop, who is not a Democrat, he is a Republican. But when the issue comes down to being sure that we are going to have decent wages for skilled workers, he comes down against the permanent replacement of strikers because he knows that it is not just the dollars and cents of a particular wage, but about the competency of the individual, the skills they have, and the oversight of their performances. The President has the responsibility and he is exercising it. He is making a judgment that these replacement workers may be individuals who do not have the skills or the background to do the job, and as a result the Federal Government's investment is threatened.

So I believe that the President has taken wise, sound action. I must say, as I was listening to the Senator from Iowa make his presentation, I was thinking back on the testimony of Cynthia Zavala, who testified in March 1993 before our committee. It is a similar story to the story recounted by the Senator from Iowa. Here is what she said:

I live in Stockton, CA. I am 52 years old and I have four children, 11 grandchildren, and 1 great grandchild. I have been employed at Diamond Walnut Processing Plant in Stockton for 24 years, starting in 1961, with several breaks when I had my children. During my years with the company, I worked my way up to cannery supervisor. My husband also worked for Diamond for 33 years.

So they have 57 years between them.

I have always worked hard for the company. They called me ''Roadrunner'' because I always moved so fast. Everybody in the plant always worked hard. We felt a lot of pride in our work. We took a personal interest in the products. That is why, in 1985, when the managers came to us and said the company was in trouble, we agreed to cut our own pay to help save our company. It was hard for us. People who had been with the company for 20, 30 years would have to go back to what they earned maybe 10 years ago. Most of us only got between $5 and $10 an hour. We had responsibilities and families to think about.

Well, we felt that Diamond Walnut was our family, too. The managers said if we stuck by them, they would stick by us. Some people ended up taking pay cuts as high as 40 percent. After those cuts, we worked even harder; production levels were up. This allowed us to double our productivity and cut the work force in half, from 1,200 to 600, at the same time.

In 1990, I was picked to be employee of the year, along with another supervisor. I felt like the award was really for the whole department. We broke the production record on the line that year. Our hard work paid off for Diamond Walnut. The next year, the net sales reached an all-time high, $171 million. The growers' return on their investment was 30 percent.

Our contract was up for renegotiation, and we felt sure the company would be ready to repay us for our sacrifices and hard work. Instead, the company wanted to cut our pay even more. They offered a small hourly increase of 10 cents, but they were going to turn right around and take twice that away by making us pay $30 a month for our health coverage. The managers started coming to the production line and brought young men from the outside with them. They wanted to know how we did our work, how they could watch, but they weren't allowed to touch the machines.

We knew they were getting ready to replace us. We would go home sometimes at the end of the day and cry because they were forcing us to train the people who were going to take away our jobs. We tried to get the company to be fair. We knew our lower-paid people were just getting by. We were down to $5, $6 for full time. Seasonal workers were getting $4.25 an hour with no health benefits. We knew we could not take another pay cut, but the company said, ''Take it or leave it.''

We had never gone on strike before and we had been in the union almost 40 years. We felt the company gave us no other choice, so we went out. The next year, the company put the scabs to work on the line. The long-time, loyal workers—75 percent of us women and minorities—ended up on the picket line fighting for our jobs. That was September 4, 1991, 18½ months ago. We are still trying to get our jobs back. They told us we were not wanted. Their loyalty is to the replacement workers.

We still can't believe this happened to us. We thought we had the right to strike to defend ourselves from being exploited by the company. As the months go by, many strikers are losing their homes, their cars, and are getting behind in their bills. Some of us could not afford to pay for insurance, so we have had to skip going to the doctor and hope we wouldn't get sick. Two weeks ago, one of our workers died, without health insurance. We try to cheer each other up. We work toward the day we get our jobs back. We hold prayer meetings on the picket line every Tuesday.

While we are struggling to get the jobs back, the U.S. Agriculture Department has given Diamond millions of dollars in subsidies to help the company sell more of its product in Europe. Diamond now sells 40 percent of its walnuts in Europe. The people I talked to were shocked about what Diamond Walnut has done. When I told them the U.S. Government has allowed the company to hire permanent replacements, they didn't believe me and made me repeat the whole story.

The union has been working very hard to help us but we need our Government to help us, too. If the law says we have the right to strike without being punished, then how can Diamond Walnut get away with replacing us? I have dedicated 24 years of my life to Diamond Walnut. I will work hard for the company when I get my job back. I believe in our country, in justice and, most of all, I believe in God. I believe that Congress and President Clinton will do the right thing this year.

By God, he has done the right thing this year. He has done the right thing. He is saying that we are not going to provide those additional funds for Diamond to go ahead and expand their product overseas, while at the same time holding these hardworking Americans by their necks and denying them the opportunity to even be able to go into negotiations and collective bargaining. That is what we are talking about here.

That is why I am amazed that this is the first issue to come before the Senate in this Congress that concerns working families. Instead of trying to help them, we are talking about further disadvantaging people making $5 or $10 an hour. We are talking about the ''Cynthia Zavalas.''

Why are we having this debate now? Why are we delaying the important appropriations necessary for our national security in order to shortchange Cynthia Zavala? That is what I am wondering. That is what I am wondering. It is wrong. We are just talking about the condition of working families.

I will be participating in a forum tomorrow morning on the proposed increase in the minimum wage. We are not out here this afternoon offering an amendment to increase the minimum wage. But tomorrow, we are going to provide an opportunity for some individuals to speak to us about the needs of people like Cynthia Zavala, whom I just talked about here.

We are going to hear from Barbara and Bill Malinowski, owners of the Yum-Yum Donut Shop in Waynesburg, PA. A former mineworker who lost his job when U.S. Steel closed down the mine, Bill and his wife Barbara bought a doughnut shop which now employs 14 people. As small-business employers, they support an increase in the minimum wage.

We are going to hear from a small businessman and woman who lost their jobs. They lost their jobs. We are talking about people trying to make it in America, who are playing by the rules, and they want to work. This issue is about working. We are talking about protection of workers' rights—not about people who don't want to work. When we talk today about workers' rights, I am reminded that we are not even talking about giving working families in America a livable wage. That is not the issue before the Senate. That is not the issue in the Contract With America. That is not here. We are talking about taking away protections for workers like Cynthia Zavala.

The Executive order does not promise Cynthia Zavala her job back, but it says that we are not going to see the Department of Agriculture use millions of dollars of taxpayers' funds that come from my State that represent the toil of workers in my State to go out and help this company shortchange Cynthia, slam the door on Cynthia. Fifty-seven years your family has given to that company and they have slammed the door on you. All we are saying is they are not going to get another bonus. But now we have an amendment on the floor of the U.S. Senate to stop that simple act of justice.

At tomorrow's forum, Americans will also have a chance to hear from Barbara and Bill Malinowski. Bill is a former mineworker who lost his job, but now he employs 14 others and, as a small employer, supports increasing in the minimum wage.

We'll hear from Nancy Carter, from Monaco, PA, in Beaver County, near Pittsburgh. Mrs. Carter's husband has had little success finding work after losing his job of 27 years in 1979, when the St. Joseph's Mineral Co. shut down. The family has been on and off unemployment and welfare as they struggle to find work. Their adult children help support the family at jobs at $4.50, $5, and $5.50 an hour.

These are the kind of working Americans we are talking about. With all the other kinds of problems and challenges that we face in this country, our friends across the aisle want to pass legislation to diminish the rights of workers.

David Dow, a pizza shop worker and parent, from Southfork, PA, near Johnstown. David and his wife work at low-wage jobs, staggering shifts to accommodate child care needs of their two children. They are trying to make it, working at low-wage jobs, staggering their shifts to accommodate child care. And now in furtherance of the Contract With America, the House has voted to diminish child care support.

We will have a chance to hear David Dow tell us how he is going to have to look harder for child care if this budget goes through. And if you strike to increase your wages, you are going to get replaced and you may lose your job.

We will hear from Tonya Outlaw, a child care center worker at Kiddie World Day Care, Windsor, NC. Ms. Outlaw is a single mother of two who quit an above-minimum-wage job because she could not afford child care. She is allowed to bring her children with her to her current minimum wage job as a child care center worker.

This is what is really happening in America.

We will hear from Alice Ballance, the owner of Kiddie World Child Development Center, Windsor, NC. Ms. Ballance owns licensed day care centers in rural North Carolina, primarily serving low-income working families. She pays minimum wage but supports an increase.

We will hear from Keith Mahone, a contracted custodial worker from Baltimore, MD. Mr. Mahone, a single father with joint custody of his daughter, is employed at minimum wage cleaning school buildings for a Baltimore city contractor. He is a founding member of an organization which lobbied for the Baltimore living wage law. Effective July 1995, employers under contract with the city must pay their employees a livable wage.

And we will hear from Robert Curry, a small business owner, from Braintree, MA. Mr. Curry employs 60 workers at several hardware stores in the South Shore area of Massachusetts. He supports an increase.

These are examples, Mr. President, of what is happening out there in the work force. We are in the Senate talking about the technicalities of an Executive order, whether the President has the power to issue an Executive order. Well, I believe he absolutely does. That can be contested and it will be contested. I am sure there are many political leaders who would like to contest it and embarrass a President who is trying to provide some degree of protection to working Americans.

And, my God, they need that protection. They need that protection, as they have seen the minimum wage effectively disappear in value over the last several years. These are real families, real workers, people trying to play by the rules, people who want to work to provide for their families, who want to make sure their kids can get a hot lunch at the school; or maybe that their teenage child can get a summer job because it is so difficult to find employment; or maybe their older child, who has been able to make it as a gifted, talented, motivated young person, can attend a good State college.

Is that difficult? Increasingly so. In my own State of Massachusetts, it is more and more difficult for students to attend college.

Mr. President, the larger issue we face, an issue clearly illustrated by this debate, is the issue of whether we in Congress are on the side of the working families across the country, or on the side of the wealthy and powerful.

The amendment before us would put the Senate squarely on the side of the wealthy and powerful corporations and against working men and women exercising their legal right to strike. This is a clear example of the brazen Republican attempts to tilt the balance of labor-management relations in favor of business and against the workers of America.

But this amendment is far from the only example of that kind of bias against working families. In fact, as the Republican Contract With America comes into sharper focus, it is becoming increasingly clear that the first 100 days of this Congress are turning into a 100-day Republican reign of terror against working men and women, against the elderly, and against children in need.

I would like to take just a few moments to cite some of the examples of the harsh approach that our Republican colleagues seem bent on taking.

The House Republicans are not only intent on slashing funds for low-income Americans, they also want to rob them of any opportunity to improve their lives. The rescission package eliminates the funding for the summer jobs program for 1995 and for 1996, too; 1.2 million young Americans from the Nation's neediest areas will be without jobs this summer because of those Republican cuts. In Massachusetts, 30,000 young men and women who were to participate in the summer jobs program over the next two summers will have to look elsewhere for employment.

The summer jobs program is more than just a paycheck. It offers an opportunity to learn the work ethic, acquire real job skills and training, and

gain a sense of accomplishment. Why would anyone deny young people that opportunity?

Republicans are not only attacking the poor, they are also assaulting the Nation's cities. The Democratic and Republican mayors of America's largest cities have come out strongly against the elimination of the summer jobs program. They know firsthand how important it is to their local economy because it provides a practical way for private-sector firms to create jobs for low-income men and women.

In my own city of Boston, private sector companies meld their programs with the public service and the summer jobs program. They take young people the first year they work in a summer jobs program, and they bring them under programs developed by the mayor in conjunction with the private sector. Then they search out promising young people in the second or third year of the program and put them in line for a good job with one of several corporations in the Greater Boston area.

This is one of the extraordinary examples of the public and private sectors working together in an effective and efficient summer jobs program. And there are other cities in my Commonwealth that have similar efforts.

Victor Ashe, the Republican mayor of Knoxville and president of the U.S. Conference of Mayors, recently contacted Speaker NEWT GINGRICH and urged him to restore funding for the summer jobs program. Republican Mayor Tom Murphy of Pittsburgh has emphasized that this program would employ 8,000 young men and women this summer in his city to tutor youngsters, assist in food pantries and soup kitchens, rehabilitate housing, and learn the value of community service programs.

Mayor Richard Daley of Chicago said, ''The summer jobs program truly makes a difference in our lives, and without these jobs, more young people will fall prey to drugs, costing society even more down the road.''

Ask any prosecutor in any major urban area about the value of a summer jobs program as crime prevention. Ask any police officer working on the problems of gangs and violence in local communities and they will talk about the value of the summer jobs program.

This program was developed in the wake of the riots in California. Now perhaps we must relearn the lessons of our time with the cancellation of these programs.

Boston Mayor Tom Menino declared the Republicans' misplaced budget priorities will be billions for prisons, zero for summer jobs, and opportunities. If the Republicans are serious about work, they should begin by restoring funding for the summer jobs program. Perhaps they intend to put these young Americans to work in the orphanages or the prisons they are planning to build.

The House Republican plan also includes drastic cuts in the School Lunch Program, and in nutrition programs for women, infants, and children. As many of my colleagues have stated, the famous cry of ''women and children first,'' is gaining a new, more sinister meaning. Women and children are the first to go hungry, the first to suffer, and the programs that serve them are the first to be cut.

Among the programs under attack are the School Lunch Program, which feeds 25 million children every day with a hot meal; the School Breakfast Program which feeds 6 million children a day; the WIC Program, which provides food to 5 million women, infants, and children every year, more than 3 million of them children under the age of 5, including about 2 million infants; and the Child Care Feeding Program which provides food to millions of children in child care every day.

These are programs being cut. These are the sons and daughters of the working parents who need the protection that this Executive order provides. Even worse, the Republican plan also lumps into the same block grant program the programs that feed senior citizens, to provide summer meals for schoolchildren, and special supplement nutrition programs for women and infants.

One of the principal criticisms of the feeding programs, the school-based programs, is that they stop in the summer. We have seen efforts to provide continuing services through the summer, so that we can try to make sure that we can adequately support these children. But now we move backward.

This is all against the background of a Carnegie Commission report just a few months ago that talked about the permanent effects in terms of brain development and behavioral patterns of children, over 1 year and under 3 years of age who do not have adequate nutrition.

We talk about the challenges that exist for children in schools today. If we do not provide adequate nutrition for children between 1 and 3, we are permanently damaging the ability of those children to develop their cognitive skills and social skills to survive in a complex, difficult, challenging place called school.

With the Carnegie report, we have just had that evidence presented again by thoughtful men and women, Republicans and Democrats, people who have spent the last 2 years studying this problem. Nonetheless, we see not an expansion of programs targeted toward those children; we see a cutback.

We will hear the answer, ''We are consolidating these programs.'' Everyone is for consolidation. Many are for consolidation. We were hearing testimony just the other day about what consolidation is going to mean.

According to the General Accounting Office, we are talking about at most 5 percent. Maybe 5 percent. We are expecting the States to pick up that 5 percent. Come to Massachusetts. Come to Massachusetts, and I will show you where it is not being picked up.

My colleagues say on the floor of the Senate that those Governors will pick up the slack. But they are not doing it. They are not doing it. And the cutbacks in work-study programs, for example, affect 70,000 sons and daughters of working families in my State of Massachusetts. The State is not helping these sons and daughters of working families. Instead, working families are paying higher fees and tuition to go to school in my State. That is the rule, not the exception.

The health needs of the elderly and the poor will be severely cut back as well. I noticed the other day that as we talk about these working families and their children, we have not even begun to talk about cutbacks in chapter 1, which is the program directed toward the neediest children.

We also ought to talk a little bit about what will happen to the parents of these working families. Child care is being cut back, food programs are being cut back, job opportunities are being cut back.

If these families live in a colder climate, they face cutbacks in energy assistance. This program helps needy, primarily elderly, seniors who would like to retain the dignity of living in their own homes rather than being dependent upon other members of the family, or selling their homes and going to a nursing home, but need some help and assistance with the fuel oil. That program is being cut.

Then we have the chairman of the Finance Committee who has talked about $400 billion in cuts in Medicare and Medicaid over the next 7 years. Cuts of that magnitude will threaten the various academic health centers, the hospitals serving the poor, the other health facilities that are dependent on Medicare and Medicaid. We had the opportunity just a few years ago on the Nunn-Domenici amendment to cap Medicare-Medicaid. It only failed by five or six votes at that time. We almost passed that. It sounded like a pretty good way to cut Government spending. But we know what would happen. We would shift it right back to the States, they would shift it right to the private sector, and they would shift it back to working families who cannot afford it. And we move further away from any sensible health care policy.

So we are talking about our seniors. Our Republican friends propose to block grant health funds in a way that would eliminate the Federal commitment to early detection and screening of breast and cervical cancer. That is an issue that our committee has been working on.

So, Mr. President, I would just advise seniors and others who have incurred higher and higher out-of-pocket medical expenses to keep a very close eye on what happens here in terms of Medicare.

They should also keep an eye on how any Medicare savings are spent. Are they going to finance a cut in the capital gains tax.

We have already heard discussed in our budget committees the path that will lead to significant cuts for the Medicare. I supported the President's program last year that would have included some tightening in terms of Medicare, targeted not just on recipients but also on providers. But those cuts financed important benefits: prescription drug benefits for our seniors, community-based care, home care for our senior citizens. That plan was an effort to take scarce resources in our health care system to make sure they are going to be utilized more efficiently, more effectively, more humanely, and more sensibly.

I listened to my good friend, HARRY REID, today talk about health care. I want to assure him that just because we have not been debating it on the floor of the Senate yet does not mean we are not going to have an opportunity to do so later in this session.

It is not my purpose this afternoon to get back into the reasons for the failure of the health care bill. But hopefully that process can lead to a new bipartisan effort. On the first day of this Congress, Senator DASCHLE introduced S. 7 as a vehicle to explore common ground. It begins to identify the areas where there has been broad bipartisan support for health care reform.

Health care is not even a part of the Contract With America, not even mentioned in the Contract With America, not even referenced in there. But the problem has not disappeared. More and more people are not covered, more and more people are being squeezed, more and more children are failing to get the care they need. The problem is not diminishing, the problem is growing. We need to focus on that issue. We cannot afford to put that matter to the side.

Mr. President, I will come back later to some of the other examples of callous policies being pursued by the new Republican majority. I see my colleague and friend from Illinois here. I just want to say in summation that I am just amazed as we gather here in the early part of March that this is the issue before us. After spending a number of weeks on the issue of the unfunded mandates, which is an enormously important issue, and after several weeks on the enormously important question of amending our Constitution, now we have an emergency measure before the Congress which the Secretary of Defense says we need in a timely way, and yet the matter we are now debating is an amendment to diminish the protections for working families in this country.

It is important as we are having this debate to ask: What has the Congress been doing with regard to working families during the period of the past weeks? What have they been doing? It is important for American families to understand what Congress has been doing. Sure, it is reported this way or that way that we are trying to cut this kind of program to squeeze out administrative costs. Most families are too busy trying to make a nickel to really follow in great detail the path that is being followed in the House of Representatives and in the Senate of the United States.

I have tried in a brief manner, and will continue to do so, to give them some idea of what is happening. Is the measure before us this afternoon going to enhance working families, the families that are hard pressed, the families that are being held back, held down, whose incomes are static, who do not participate in the expanding profits of major companies? Is that the matter we are talking about in this new Congress, how we are going to do something for those families and give them more help, give them more hope, give them a greater future, give their children a greater future? Is that what we are talking about here on the floor of the U.S. Senate this afternoon? Of course not. Tragically we are not. I should not say ''of course not,'' but we are not. We are not. The echo of the proposal that is before the U.S. Senate is not one that is going to resonate in families tonight and lead parents to say, ''All right, it might not help me, but at least it is going to help my children.''

''It might not help me, but it is going to help one of my children get a job this summer.''

''It is not going to help me, but maybe it is going to help my daughter get a better education.''

That is not the message. It is not a message that says, ''It is not going to do much for me and my family, but for my parents, who worked hard over their lifetime, it is going to mean a little greater hope for them.'' That is not the message.

What is it saying to all those I mentioned earlier, what it is saying to Cynthia Zavalas, a person just about making minimum wage as part of a family that has worked 57 years in a company? It is saying: You have been permanently replaced, effectively fired, and we are not going to help.

The Executive order will not get her job back, but it says that we are not going to give an additional financial reward to the company that has treated her poorly. That is what we are saying. And it is just because of that simple concept that this measure involving our national security is being delayed.

I am always amazed around here about how we spend our time and what we spend our time fighting for or fighting against. This is one of the examples that really takes the cake.

Mr. President, I see my colleague and friend, and others, on the floor. I yield the floor.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER (Mr. GREGG). The Senator from Washington.

Mr. GORTON. Mr. President, I have come over here to the floor this afternoon believing that the subject was the President's almost certainly unlawful Executive order with respect to striking replacements. I have not understood the debate was going to be on the entire panoply of social programs piled up over the course of the last 20 or 30 or 40 years on the backs of the people of the United States. But I think comments on those programs do deserve at least a certain degree of response.

Last week, many of the most eloquent proponents of a wide range of social and cultural programs voted to reject the constitutional amendment requiring a balanced budget. Many of them, at least, on the grounds that it should be the Congress itself which provides the necessary discipline to protect future generations from the consequences of our propensity to run up huge unpaid debts. And yet when it comes to any criticism, any reduction in even the growth rate of dozens, perhaps hundreds, of those programs, the proponents of fiscal responsibility are denounced as uncaring and indifferent to the needs of the American people.

Perhaps that argument would carry some weight if the growth of those programs had been accompanied by greater opportunities, a higher degree of family stability, more unity—in other words, had been accompanied by some demonstrable success as a result of all of those spending programs.

Of course, the contrary is true. During exactly the period of time during which there have been growing social and economic challenges to this country, deterioration of the society of this country has accompanied the growth of those programs hand in hand.

That does not prove in and of itself a cause and effect relationship, Mr. President, but it certainly makes dubious the proposition so eloquently presented here by the Senator from Massachusetts. The real burden which we have imposed on the people of the United States is the burden of debt, a burden which day after day, week after week, month after month, constricts our ability to provide jobs and opportunities for the people of this country.

We need a change in direction, and the debate here today, as it was last week and the week before, is paradoxically between those who over the years have been known as conservatives but who now believe that radical changes are necessary for this country, and those who have led the drive for all of these social programs, these spending programs, one piled on top of another, who are now so intensely conservative that we hear from them no desire for any change whatsoever, save perhaps to spend more money on programs which have not worked in the past.

The true proponents of the status quo are those who constantly fight against any change in our spending priorities whatsoever, who ask for more of the

very programs which have been associated with a decline not just in our society and our economy but even our civility.

I am firmly convinced, Mr. President, that we need a new way, a new direction. The failure to take that new direction, that new road last week has been accompanied in the last week by a substantial loss in the value of our currency, the dollar, a substantial loss in confidence in nations and among people overseas in our seriousness in the retention of our leadership. If we cannot pass a constitutional amendment for a balanced budget, at least we have to be willing to do something about out-of-control spending programs even though we are almost certain to be criticized, no matter how small the changes in our priorities, as being somehow or another unfeeling. We are not unfeeling, Mr. President. It is our set of policies that will provide true opportunity for the people of the country in the future.

And now to the amendment proposed by my distinguished colleague and seatmate, the Senator from Kansas [Mrs. KASSEBAUM].

I believe that, as important as the issue of striker replacement is, the issue of who can make such rules under our constitutional system is even more important. This debate is not so much over the merits or lack of merits of striker replacement as it is over the wrong, and I believe almost certainly unlawful, action of the President of the United States to attempt to impose by fiat, by dictate, a policy which has been rejected explicitly in a long series of debates by the Congress of the United States.

This action, Mr. President, is without precedent. This action is clearly in defiance of laws relating to labor/management relationships dating back some 60 years, expressly interpreted and approved by the Supreme Court of the United States, and debated in each of the last several Congresses without change. And yet, in spite of this statutory history, in spite of this judicial history, in spite of this political history, the President of the United States purports to change those rules. When his action is challenged, Mr. President, I am convinced that it will be overturned by the courts as entirely unlawful and beyond his authority.

However, we should not wait passively, without reaction, to have the constitutional separation of powers be upheld by the courts of the United States. We should take that action ourselves. We should take that action ourselves, whatever our views on the merits of striker replacement, but simply to protect the rights and the duties of the elected representatives of the people of the United States to make fundamental determinations about statutory policies with respect to labor-management relations.

That is the issue, Mr. President, with respect to the Kassebaum amendment. And it is for that reason that all Members of this body who care about the Constitution and the laws and about the separation of powers should vote for this amendment, whatever their views on the merits of the underlying policy itself.

I am convinced that the Senator from Kansas should be commended. She has a special responsibility as the chairman of the Senate Committee on Labor. She is carrying out her duties under difficult circumstances, knowing that the issue itself is a contentious one, but she by this action has reminded us of our duties which we should now undertake to perform.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I wish to congratulate and compliment my colleague, Senator KASSEBAUM, from Kansas, for her amendment. I think it is regrettable that her amendment is necessary.

I heard one of my colleagues say is this not terrible that here the Republicans are and they have this amendment—this is an antiworker amendment. I totally disagree. This amendment is necessary because of an Executive order by the President of the United States to circumvent Congress and circumvent the U.S. Supreme Court. Congress has clearly stated its will or its desire to keep the law to where employers have the right to hire replacement workers. This President—and the Vice President, I might mention, because I caught part of his speech that he made to the leadership of the AFL–CIO in a speech in Florida—wants to overturn that by Executive order. They want to change law by Executive order.

The President of the United States is President, but he is not king, and he cannot pass law by Executive order. I totally agree with my friend, Senator GORTON, from Washington, who said this Executive order will be determined unconstitutional. It clearly will. It is not a valid Executive order. It will not stand the test of time. It will not stand up in a test in court. Clearly it is the President exceeding his Presidential authority and power, and it is a flagrant abuse of power.

I am reading this Executive order. If my colleagues have not seen it, I would encourage them to read it. Just looking at the Executive order—this is dated March 8—it talks about, in the first paragraph:

> The * * * Government must assist the entities with which it has contractual relations to develop stable relationships with their employees.

Why is that a Federal Government responsibility? It says the Federal Government ''must.'' According to the President's Executive order, they will be forced to.

It goes on to say:

> All discretion under this Executive order shall be exercised consistent with this policy.

''All discretion.''

> The Secretary of Labor may investigate an organizational unit of a Federal contractor to determine whether the unit has permanently replaced lawfully striking workers. Such investigation shall be conducted in accordance with procedures established by the Secretary.

We are going to give the Secretary of Labor great latitude to investigate something that he might determine is illegal and, if he so determines, then he can bar them from any Federal contracts.

Let us just take as an example, let us say, a defense contractor. Maybe they are working on building a nuclear aircraft carrier or fighter aircraft planes, the F–16 or F–14 or something along that line. Maybe there is a division within their unit that is having a strike, and that employer has a contract with the U.S. Government to produce those planes on time or to make this part on time so they can stay on time and on schedule and not be overpriced.

You could have the Secretary of Labor determine: Wait a minute, this is a violation. Therefore, you are going to lose this contract.

What if they are 70 percent through with the contract? We are going to get a new contractor to come in and finish the aircraft carrier? We are going to have a new contractor come in and try to pick up with the delivery on the F–16? I do not think so.

Talk about discretion for the Secretary. I was wondering how this section 11 of this Executive order—it says:

> The meaning of the term ''organizational unit of a Federal contractor'' as used in this order shall be defined in regulations that shall be issued by the Secretary of Labor, in consultation with the affected agencies. This order shall apply only to contracts—

And on and on. So they are going to give the Secretary of Labor total discretion to determine whatever organizational unit might apply. If they have a strike and they hire permanent replacement workers, then they are totally banned or barred from Federal work.

How much would that cost the Federal Government, if you disrupt a contract right in the middle of procuring a particular product or completing a contract? It could cost a lot of money.

Talk about caving in to a special interest group—and I do not say caving in to organized labor, I say caving in to leadership of organized labor. This is not a benefit to benefit labor. This is a benefit to say the Federal Government, under this administration, thinks they should be involved in labor-management disputes.

I heard my colleague say this is not about the underlying issue. One should vote for the Kassebaum amendment regardless of how they feel about striker replacement. I agree with that statement, because clearly the President has exceeded his authority, both against the will of Congress and against previous court rulings.

On the underlying issue the President is wrong as well. Individuals certainly should have the right to organize. They have the right to strike. If they do not want to work, they should not have to work. But, likewise, an employer has to have the right to hire permanent replacement workers to keep the doors open, to keep the plant running, to make the contracts, to meet the schedules, to be on budget or under budget.

Then this President's Executive order says: No, if you hire permanent replacement workers, you are going to lose any Federal contracts, you are going to be debarred, you will not be able to do Federal contracting.

This is an outrageous power grab, and it will not stand the test of time. It should not stand. I hope my friends and colleagues will support Senator KASSEBAUM in her amendment. She happens to be right. I wish it was not necessary.

I might mention, after the President made mention of his Executive order, we wrote the President a letter and said by what authority do you do this? The President does not have the authority to do this. The President does not have the authority to do by Executive order a statutory change, to change the law. Yet that is exactly what he is trying to do. His efforts will not succeed. They should not succeed.

I encourage my colleagues to support the Senator from Kansas in this amendment, and I hope it will prevail.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I wonder if I might ask for unanimous consent to speak for 5 minutes as though in morning business so as not to interrupt this debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE DUCK HUNTING SEASON IN MINNESOTA

Mr. WELLSTONE. Mr. President, this is an announcement I want to make on the floor of the Senate that is certainly important to my State of Minnesota. Today, the Governmental Affairs Committee, consistent with a request that I made 2 weeks ago, corrected an error in the regulatory moratorium bill, that is S. 219, in order to protect the 1995 migratory bird hunting season. I am delighted that my colleagues, Democrats and Republicans alike, responded to the concerns of thousands and thousands of people who participate in the bird hunting season in Minnesota.

When I learned that a provision in the regulatory moratorium bill threatened the 1995 bird hunting season, I asked my colleagues on the Senate Governmental Affairs Committee to correct the bill. I also introduced a piece of legislation to protect the 1995 hunting season from the moratorium provision. I am delighted to report to the people of Minnesota that the committee took the time to remedy the problem so that Minnesotans can enjoy this cherished annual event. I owe a special debt of gratitude to Senator GLENN and Senator PRYOR for their work on the committee.

Mr. President, in our rush to reform the regulatory process we almost canceled a tradition for this year. Some of my colleagues criticized my efforts to correct the language in the bill. They claimed I was using scare tactics, that this was some kind of political magic show. But now, by correcting this legislation, the committee has made clear that there was an error in the original bill, an error that was overlooked and then vehemently denied for the sake of trying to rush through the Contract With America. Sometimes haste makes waste.

Last week one of my colleagues, a cosponsor of the bill, said that the language in S. 219 exempted the annual bird hunting rulemaking from the moratorium. Perhaps we should note that my colleague was from a Southern State—which from my point of view is fine because I love the South and grew up, part of my early years, in North Carolina. But the normal duck hunting season opens later in the South—I know my colleague from Oklahoma knows this —than it does in Minnesota.

And if the Fish and Wildlife Services' estimated best case scenario proved correct, the original S. 219 would have served to delay the necessary rulemaking, and thus opening the season in Minnesota would have been postponed by no less than 30 days.

Since Minnesotans do the majority of their hunting at the local shoot in early October—our season begins in early October, before the local ducks fly south—such a delay would have effectively canceled a major part of our season. But in my colleague's State, duck hunting season was mid to late November, and therefore might not have been as seriously affected by the delay.

It has always been clear to me that the bill as originally introduced did not protect the 1995 bird hunting season. Despite strong statements that it was never the intent of the bill's sponsors to put the season at risk—and, by the way, I agree that it never was the intent—the language of the bill is what matters most. And now, because of the action of the Governmental Affairs Committee, we have the protection that we need, the rulemaking goes on, and I am very proud of the fact that the men and women in the State of Minnesota and their children can rest assured that we will have no delay or cancellation and that we will have our season.

So this is a sort of thank you to my colleagues and a delivery of a very positive message to Minnesotans.

Mr. NICKLES. Will the Senator yield?

Mr. WELLSTONE. I will be pleased to.

Mr. NICKLES. Just for the Senator's clarification, as original sponsor of S. 219, I would like to inform my colleague that we did have in the original bill an exception for administrative actions. When Senator ROTH introduced the bill for markup, we had an exception for routine administrative actions. Also we have always had exceptions for licensing.

So the arguments that were made by many people—including President Clinton—who said that duck hunting licenses and burials at Arlington cemetery were jeopardized by the moratorium, were totally incorrect. The bill did state—just so my colleague will know— the bill stated and exempted from routine administrative actions—and it exempted agencies in their licensing process—which happens to include hunting and fishing licenses. So they were never in jeopardy. But I know that an amendment was clarified just to make absolutely sure that people in Minnesota would be able to hunt ducks and people would be able to go fishing without any prohibition whatsoever by this moratorium on rulemaking.

Mr. WELLSTONE. Mr. President, I appreciate the comments of my colleague. I want to say to him that I have, of course, heard this before. The key distinction was that the hunting season is not covered by the administrative exemption nor are we talking about licensing. We were talking about the rulemaking the Fish and Wildlife Service undergoes every year to open the migratory bird hunting season. The problem was that the moratorium on rulemaking would affect this hunting rule. That is what I said. The legislators have to be careful with the language. The fact is that the change was made today in Governmental Affairs to make sure that Fish and Wildlife could go forward with that rulemaking and we will have our season. The proof is in the pudding. I am delighted the change took place.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS ACT

The Senate continued with the consideration of the bill.

Mr. WELLSTONE. Mr. President, I would like to respond for a moment, and then defer to my colleagues from Massachusetts and Illinois because I had an ample amount of time to speak this mornings. I will not take more than 5 minutes.

I want to make two points. I made them this morning. I would like to be as concise as possible.

The first point is I think the issue is very clear. Senators can vote different ways on this question. The President's Executive order says that when the U.S. Government has a contract with a company, a contractor which in turn permanently replaces its workers during a strike, then our Government will